



County of Los Angeles CHIEF EXECUTIVE OFFICE

Kenneth Hahn Hall of Administration
500 West Temple Street, Room 713, Los Angeles, California 90012
(213) 974-1101
<http://ceo.lacounty.gov>

WILLIAM T FUJIOKA
Chief Executive Officer

August 23, 2011

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

**DEPARTMENT OF PUBLIC WORKS:
HIGH DESERT COMPLEX SOLAR PROJECT
CITY OF LANCASTER
ADOPT MITIGATED NEGATIVE DECLARATION
APPROVE PROJECT AND PROJECT BUDGET
AUTHORIZE USE OF LEASE-PURCHASE FINANCING
AWARD DESIGN-BUILD AND OPERATIONS AND MAINTENANCE ENERGY
SERVICE CONTRACTS
MAKE FINDINGS OF PROJECT SELF-FUNDING
CAPITAL PROJECT NO. 67940; SPECS. 7147
(FIFTH DISTRICT) (3 VOTES)**

SUBJECT

Approval of the recommended actions will adopt the Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Program for the High Desert Complex Solar Project (Project), approve the Project and Project budget, authorize the Department of Public Works to carry out the Project and execute design-build and operations and maintenance energy service contracts for the installation of two 1-megawatt solar photovoltaic plants that will partially serve the Mira Loma Detention Center and the Challenger Memorial Youth Center in the City of Lancaster, make findings of Project self-funding and adopt a resolution authorizing the County to enter into a facility financing contract for the Project under Section 4217 of the California Government Code, and authorize implementation of a Local Worker Hiring Program.

Board of Supervisors
GLORIA MOLINA
First District

MARK RIDLEY-THOMAS
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

"To Enrich Lives Through Effective And Caring Service"

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IT IS RECOMMENDED THAT YOUR BOARD:

1. Consider the Mitigated Negative Declaration for the High Desert Complex Solar Project together with any comments received during the public review process; find that the Mitigated Negative Declaration reflects the independent judgment and analysis of your Board; adopt the Mitigation Monitoring and Reporting Program, finding that the Mitigation Monitoring and Reporting Program is adequately designed to ensure compliance with the mitigation measures during Project implementation; find on the basis of the whole record before your Board that there is no substantial evidence the Project will have a significant effect on the environment; and adopt the Mitigated Negative Declaration.
2. Approve the High Desert Complex Solar Project and a \$13,900,000 Project budget for two independent 1-megawatt solar photovoltaic track-mounted panels serving the Mira Loma Detention Center and the Challenger Memorial Youth Center funded with lease-purchase financing proceeds eligible for Qualified Energy Conservation Bond federal interest subsidies.
3. Adopt a resolution authorizing the County to enter into a Taxable Qualified Energy Conservation Bond Equipment Lease/Purchase Agreement via a private placement with Banc of America Leasing & Capital, LLC, in an aggregate principal amount not-to-exceed \$14,000,000 at an interest rate not-to-exceed 2 percent (net of 70 percent federal Qualified Energy Conservation Bond interest subsidy) for a term of up to 18 years, and approve the form of Purchase Contract and Taxable Qualified Energy Conservation Bond Equipment Lease/Purchase Agreement (Direct Subsidy), and use up to \$14,000,000 of the \$14,445,000 in Qualified Energy Conservation Bond authorization allocated to the Project by your Board on August 10, 2010.
4. Authorize the Treasurer and Tax Collector and Chief Executive Office, as applicable, to execute and deliver on behalf of the County related documents, which are required in order to complete the financing and complete the transaction substantially as to form (collectively, the "Bond Documents"), and authorize the Chief Executive Office and/or Treasurer and Tax Collector to complete such documentation as may be necessary to complete the financing transaction.
5. Find that SunPower Corporation, Systems is the Responsive and Responsible Bidder that submitted the most advantageous and best value proposal for the design, construction and operations, and maintenance (for 10 years) of two independent 1-megawatt solar plants, based on the criteria stated in the Request for Proposals, including technical design and construction expertise,

skilled labor force availability, safety record, price, design-build team personnel and organization, work plan and schedule, and oral presentation.

6. Award and authorize the Director of Public Works to execute two contracts with SunPower Corporation, Systems consisting of a design-build energy services agreement to provide the Project design and construction at a maximum, not-to-exceed agreement sum of \$10,975,302.50 and an operations and maintenance energy service contract, to provide operations and maintenance of the solar systems for 10 years at a maximum, not-to-exceed agreement sum of \$530,640, with both contracts subject to receipt by the County of Acceptable Faithful Performance and Payment for Labor and Materials Bonds and evidence of required agreement insurance filed by the design-build entity.
7. Find that the terms of the recommended energy service contracts are in the best interests of the County, and that the anticipated cost to the County for electrical energy or conservation services provided by the two 1-megawatt solar plants under the energy service contracts will be less than the anticipated marginal cost to the County of electrical energy that would have been consumed by the County in the absence of those purchases, as provided for under California Government Code Section 4217.12, subdivision (a) (1).
8. Find that the funds for the repayment of the financing of the Project to be financed by the Taxable Qualified Energy Conservation Bond Lease/Purchase Agreement are projected to be available from revenues resulting from funding that otherwise would have been used for the purchase of electrical, thermal or other energy required by the County in the absence of such project as provided for under Section 4217.13 of the California Government Code.
9. Authorize the Director of Public Works to exercise control of the design completion allowance, including the authority to reallocate the allowance into the agreement sum, as appropriate, to resolve cost issues with SunPower Corporation, Systems that are identified during the design phase of the Project, such as changes resulting from unforeseen conditions, including construction related impacts.
10. Authorize the implementation of a Local Worker Hiring Program for the High Desert Complex Solar Project, and find that the program furthers a legitimate governmental interest for the reason stated in this letter, and in the Project files.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

Approval of the recommended actions will adopt the attached Mitigated Negative Declaration (MND) and Mitigation Monitoring and Reporting Program (MMRP) for the High Desert Complex Solar Project (Project) to be built on County-owned vacant land between the Mira Loma Detention Center (MLDC) and Challenger Memorial Youth Center (CMYC); approve the Project scope and Project budget; make a finding of self-funding; authorize the Director of Public Works to execute two agreements; authorize implementation of a Local Worker Hiring Program; and allow the Project to proceed.

The Project consists of site preparation and installation of two 1-megawatt (MW), for a total of 2-MW, solar photovoltaic (PV) ground mounted solar tracking panels systems, one of which will be connected to the Southern California Edison (SCE) meter located at MLDC and the other to the SCE meter at CYMC. The Project will generate electricity that will be fed to the power grid through the SCE meters. The solar electricity fed to the grid will offset an equal amount of usage by the MLDC and CMYC facilities through net-metering. The solar systems are expected to generate an amount of electricity, which will offset approximately 25 percent of usage at MLDC and 55 percent at CMYC.

Background

On August 10, 2010, your Board approved several actions related to its \$39,018,000 allocation of Qualified Energy Conservation Bond (QECB) authorization, including an action to allocate \$14,445,000 to the proposed Project to install an approximate 2-MW ground-mounted solar PV panel electricity generating system, including the allocation of \$14,445,000 in authorization for the proposed Project. The QECB authorization was provided to the County under the American Recovery and Reinvestment Act of 2009. At that time, your Board authorized application for renewable energy production incentive payments available under the California Solar Initiative (CSI), to finance the proposed Project.

The QECB program provides direct federal subsidy of 70 percent of the interest costs on the bonds. In response to a competitive design-build proposal process, SunPower Corporation, Systems (SunPower) proposed a private placement structure with Banc of America Leasing & Capital, LLC (BALC) to finance the construction of the Project. Under the proposed financing structure, BALC will purchase the QECBs at the 8-year U.S. Treasury Interest Rate Swap Rate plus 2.16 percent, presently resulting in a taxable interest rate of 4.68 percent and a net interest rate to the County (after receipt of the County's interest subsidy payment from the federal government) of 1.21 percent.

The Treasurer and Tax Collector (TTC) has evaluated the private placement structure and determined that the financing cost is competitive with a traditional public debt offering and would enable the County to execute the transaction on an accelerated schedule to take advantage of historically low interest rates in the U.S. Treasury market. A private placement structure would also allow the County to meet the requirement of the CSI for execution of the design-build energy services contract to be completed by the end of August 2011. We request an authorization of a net interest not-to-exceed rate of 2 percent to cover potential increases in the 8-year U.S. Treasury Interest Rate Swap Rate, prior to closing.

To access the CSI incentive payments, which pay an incentive rate for producing clean, renewable energy, the Chief Executive Office (CEO) submitted applications for the two 1-MW solar systems in October 2010 and received approval for incentives in January 2011 at the 19 cent per kilowatt-hour (kWh) rate. The incentive program will pay the County 19 cents per kWh for the electricity the systems produce during their first five years in operation. The incentive will be paid each month for the first 60 months the system is in operation. Based on the projected electricity production of the solar systems (combined at 5.34 million kWh in the first year), the incentive payments are projected to amount to more than \$1.0 million per year, for a total of \$5.0 million.

Based on the 25-year life of the PV solar systems, it is estimated that the reduced utility costs, CSI incentive payments and low-cost financing through the QECB borrowing, will result gross savings over the 25-year life of the PV solar systems of no less than \$8.5 million (\$4.8 million net present value (NPV) savings). At current rates (net interest rate of 1.21 percent), the net County benefit of the Project is projected at \$9.3 million gross savings over 25 years (\$5.3 million NPV savings). The cost savings are reflected in Attachment C. To determine the avoided cost rate assumption that reflects the cost savings value of each kWh produced by the solar systems (11.25 cents per kWh), the County relies on an independent analysis conducted by an engineering consultant contracted by the County, which considered existing consumption patterns, rates, and usage at MLDC and CMYC. The analysis of energy production takes into account SunPower's past actual energy production versus projected production for projects of similar type. Other assumptions used in the analysis are reflected in Attachment C.

To protect the County from lower than expected benefits from underperformance of the system, SunPower will be required to compensate the County if annual production falls below 90 percent of the projected production. Based on contract terms of the recommended contract, the repayment requirements of the recommended private placement financing proposal and available utility data, the CEO believes there is more than sufficient evidence to support the finding required under Code Section 4217.12 that the Project results in an anticipated cost of electricity to the County that is lower than the anticipated marginal cost of electricity if we had not undertaken the Project.

Proposed Contracts

SunPower was found to have submitted the best value and most advantageous proposal to perform the design, construction and operations, and maintenance of the Project. We recommend your Board award: (1) the design-build contract to SunPower in the maximum agreement sum of \$10,975,302.50, which includes a \$250,000 design completion allowance; and (2) a 10-year operations and maintenance energy service contract to SunPower for a maximum agreement sum of \$530,640 (at \$4,422 per month for 120 months) to provide operations and maintenance services, subject to SunPower satisfying the conditions for contract awards.

The design-build energy service contract's design completion allowance is intended to facilitate the resolution of issues identified only during the design phase of the Project, including issues concerning the County's scoping documents, or changes required by jurisdictional agencies, or due to unforeseen conditions discovered during design, including any increased design or construction costs associated therewith. The inclusion of the design completion allowance will facilitate the decision process during design and minimize potential delays that could occur while design-phase issues are resolved. The use of the design completion allowance will be controlled by the Department of Public Works (Public Works), but will require written approval from the CEO before any reallocation of funds from the design completion allowance into the agreement sum is permitted. The design completion allowance shall not be used to fund the resolution of issues, conditions, or changes encountered during the construction phase. The design completion allowance will be included in the QECB lease-purchase financing.

Operations and Maintenance (O&M) Contract

SunPower will be responsible for the maintenance and operations under the Operations and Maintenance (O&M) contract for a period of 10 years. At the end of the contract term, the County may choose to continue to contract with SunPower, or another outside provider, or provide its own maintenance. The O&M contract requires SunPower to provide training to County staff prior to the end of the contract to enable the County to provide this function if it chooses to at that time.

Upon determination of the apparent best value proposer, Public Works negotiated final terms with SunPower, which resulted in the \$10,975,302.50 maximum agreement sum for the design-build energy service agreement, and in the \$530,640 maximum agreement sum for the operations and maintenance energy services contract.

Private Placement QECB Lease Purchase Financing

To provide the financing for the Project, we recommend the use of a private placement facility financing contract with BALC. The authorizing resolution is attached hereto as Attachment D. The County will secure the financing through a security interest in the solar equipment. The Bond Documents which are recommended for approval as to form by your Board will facilitate this transaction. The Bond Documents consist of: (1) a Taxable Qualified Energy Conservation Bond Equipment Lease/Purchase Agreement (Direct Subsidy) (Attachment E); and; and (2) a Purchase Contract (Attachment F).

Local Worker Hiring Program

On October 19, 2010, your Board approved the Local Worker Hiring Program (LWHP) for the Martin Luther King, Jr. (MLK) Medical Center Inpatient Tower Renovation and Multi/Service Ambulatory Care Center (MACC) Projects. That program included a mandatory requirement that a minimum of 30 percent of the California construction labor hours be performed by qualified "local residents." Further, one-third of the local worker hours or 10 percent of the total California construction work hours are required to be performed by "Disadvantaged Local Workers," individuals who possess specific documentable social/economic barriers.

"Local residency" was defined with a two-tier system - first preference was to be given to qualified workers residing within the County in zip codes within a 5-mile radius of the MLK Medical Center; and second preference given to qualified workers residing within the County in any zip code having an unemployment rate in excess of 150 percent of the average unemployment rate for the County.

As a basis for implementing this LWHP with a mandatory minimum threshold, a Factual Predicate Study (Study) was prepared. The Study reviewed an extensive amount of data and determined that there are areas of the County with high concentrations of disparity, such as excessive rates of unemployment, poverty, home foreclosures, etc. These findings are consistent with your Board's action in December 2009, in which the entire County was designated an economic recovery zone.

On February 8, 2011, your Board authorized a LWHP for the East Rancho Dominguez Library Project using the same two-tier definition of a local worker – a County resident living within a 5-mile radius of the Project site, or living in a zip code with an unemployment rate in excess of 150 percent of the County average rate.

Recommended LWHP for the High Desert Complex Solar Project

The Study documented that the City of Lancaster was one of the 30 cities/ census-designated places in the County with an unemployment rate in excess of

150 percent of the national unemployment rate of 9.7 percent. The City of Lancaster includes three zip codes (93534, 93535, and 93536) in which the poverty rate for families is higher and per capita income is lower than in the County as a whole. These zip codes constitute approximately 85 percent of the land area within a 5-mile radius of the Project site. Therefore, it is recommended that a LWHP be implemented for the Project with the following key elements:

- The design-builder is required to make a good-faith effort to employ qualified local workers to perform at least 30 percent of the total California craft worker hours.
- "Local residency" is defined with a two-tier system: first preference will be given to qualified workers residing within the County in zip codes within a 5-mile radius of the Project; and second preference given to qualified workers residing within the County in any zip code having an unemployment rate in excess of 150 percent of unemployment rate for the County as a whole or a Bank Enterprise Awards Distressed Community.

Sustainable Design Program

The installation of the solar plant will further your Board's Sustainable Design Program by reducing the amount of electricity it uses from polluting sources. The installation of the plants will reduce the County's carbon footprint by substituting clean solar energy for coal and gas-generated power supplied by SCE through the electricity grid. The development of the plant will help further develop and support the growing solar industry in the Los Angeles County.

Implementation of Strategic Plan Goals

The Countywide Strategic Plan directs the provision of Operational Effectiveness (Goal 1) by maximizing the effectiveness of the County's processes, structure, and operations to support the timely delivery of customer-oriented and efficient public services. This Project will help achieve this goal as it is an investment in public infrastructure that will serve two Antelope Valley facilities by reducing the use of hydrocarbons being used to generate electricity.

FISCAL IMPACT/FINANCING

The Project will have a positive net financial impact on the General Fund, commencing in Fiscal Year (FY) 2012-13 due to the benefits of the SCE utility savings, the CSI incentives, and the QECB federal interest subsidy.

In the worst case scenario where the net interest rate of the bonds is at the maximum authorization of 2 percent, a net positive will be maintained each year, with annual benefits increasing over time as the avoided utility costs rise from increasing rates. Gross savings in this scenario are projected at approximately \$8.5 million (\$4.6 million NPV savings) over the 25-year life of the PV solar systems.

At current rates, total projected savings will be in excess of \$1.8 million (\$1.3 million NPV savings), and approximately \$9.4 million gross savings (\$5.3 million NPV savings) over the 25-year lifetime of the solar systems (see Attachment C). As indicated in Attachment C under County Benefit, the anticipated budgetary impact of the Project will start at an estimated \$1,132 in year 1 (FY 2012-13), and grow annually, with a positive net impact of \$1,017,168 in year 25 (FY 2036-37). While utility savings will rise each year by an assumed average of 3 percent due to increasing utility rates, net debt service expenses will be maintained at the approximate \$600,000 amount per year, resulting in growing annual County benefits over the course of the 25 years. The costs of issuance is set at \$100,000 and will fund legal fees and closing costs. Any excess balance in costs of issuance will be added to the Project construction fund.

The Project budget is \$13,900,000, including the design-build energy service contract costs covering design and construction, design completion allowance, change orders, consultant services, plan check, miscellaneous expenditures, and County services.

The Project Schedule and Budget Summary are included in Attachment A.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The contract contains terms and conditions supporting your Board's ordinances and policies, including, but not limited to: County Code Chapter 2.200, Child Support Compliance Program; County Code Chapter 2.202, Contractor Responsibility and Debarment; County Code Chapter 2.203, Contractor Employee Jury Service Program; County Code Chapter 2.206, Defaulted Property Tax Reduction Program; Board Policy 5.050, County's Greater Avenues for Independence and General Relief Opportunities (GAIN/GROW); Board Policy 5.060, Reporting of Improper Solicitations; Board Policy 5.110, Contract Language to Assist in Placement of Displaced County Workers; and Board Policy 5.135, Notice to Contract Employees of Newborn Abandonment Law (Safely Surrendered Baby Law).

As requested by your Board on August 12, 1997, and as a threshold requirement for consideration for contract award, SunPower is willing to consider GAIN/GROW participants for future employment.

As required by your Board, language has been incorporated into the Project specifications stating that the contractor shall notify its employees, and shall require each subcontractor to notify its employees that they may be eligible for the Federal Earned Income Credit under the Federal income tax law (Federal Income Tax Law, Internal Revenue Service Notice 1015).

The Project specifications contain provisions requiring the contractor to report solicitations of improper consideration by County employees and allowing the County to terminate the contract if it is found that the contractor offered or gave improper consideration to County employees.

The funding source for the Project (QECB financing) cannot be used to fund 1 percent of the estimated design and construction costs to the Civic Art Fund per your Board's Civic Art Policy adopted on December 7, 2004, and revised on November 18, 2008.

ENVIRONMENTAL DOCUMENTATION

An Initial Study was prepared for this Project in compliance with the California Environmental Quality Act. The Initial Study identified potentially significant effects of the Project, in the following areas: for aesthetics, biological resources, cultural resources, hazards and hazardous materials, noise, public services, and utilities and service systems. Prior to the release of the proposed Initial Study/MND for public review, revisions in the Project were made or agreed to which would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur, as follows:

- | | |
|-----------------------|--|
| Aesthetics: | Glare from the solar energy facility will be mitigated through appropriate facility and site design. |
| Biological Resources: | Impacts to migratory birds will be mitigated by conducting construction activities outside the bird nesting season (March 15 - September 15). Vegetation and ground disturbances to an "Avoidance Area" on the southern boundary of the Project site will be mitigated through the use of above ground pipes and overhead utility lines and the identification of prohibited activities within the subject area. |
| Cultural Resources: | A buffer zone of at least 30 feet around the former wastewater treatment system with permanent fencing will be maintained and a qualified Archaeologist will observe grading activities to ensure that procedures for the sampling, identification, and evaluation of artifacts are appropriately |

followed in the event that such items are exposed during grading activities.

- Hazardous Materials:** Demolished structures will be tested for hazardous material content and disposal of hazardous materials will be performed in accordance with applicable regulatory requirements. In addition, soil samples shall be taken and tested for contaminants of concern upon determination of the location of the solar panels. If soil test results indicate the presence of hazardous materials, the appropriate measures to mitigate this will be conducted in compliance with the applicable regulations and under oversight by a local or State governmental agency. Furthermore, the County will require the use of biodegradable, non toxic and hazardous cleaning agents, and additives for the cleaning of the solar energy facility.
- Noise:** A temporary 10-foot noise barrier will be constructed prior to the start of construction activities. Equipment and staging areas will be placed at appropriate distances from the adjacent High Desert MACC and MLDC to further mitigate noise impacts.
- Public Services:** Permanent structures will not be placed within 100 feet of the MLDC fence line, nor will parking or storage be made within 100 feet of the MLDC.
- Utility Systems:** Use of non-potable water or water derived from sources other than the Antelope Valley Groundwater Basin will be utilized at the proposed facility and landscaped areas will not require a permanent supply of irrigation water.

The Initial Study and Project revisions showed that there is no substantial evidence, in light of the whole record before the County, that the Project, as revised, will have a significant effect on the environment. Based on the Initial Study and Project revisions, an MND was prepared for the Project.

Public notice was published in the Antelope Valley Press newspaper on May 16, 2011, pursuant to Public Resources Code, Section 21092, and posted pursuant to Section 21092.3. The Initial Study and MND were made available to the public for review and comments from May 16 to June 14, 2011. The following comment letters were received, all from public agencies: Native American Heritage Commission, Lahontan Regional Water Quality Control Board, and the County of Los Angeles

Fire Department. Responses to the comments are included in the final MND and sent to these agencies pursuant to Section 21092.5.

The location of the documents and other materials constituting the record of the proceedings upon which your Board's decision is based in this matter is the Los Angeles County Department of Public Works, Project Management Division II 900 South Fremont Avenue, 5th Floor, Alhambra, California 91803. The custodian of such documents and materials is James Kearns.

The Project is not exempt from payment of a fee to the California Department of Fish and Game pursuant to Section 711.4 of the Fish and Game Code to defray the costs of fish and wildlife protection and management incurred by the California Department of Fish and Game. Upon your Board's adoption of the MND, Public Works will file a Notice of Determination in accordance with Section 21152(a) of the California Public Resources Code and pay the required filing and processing fees with the Registrar-Recorder/County Clerk in the amount of \$2,119.00

CONTRACTING PROCESS

This Project includes two contracts: one for the design-build phase of the Project, and the other for the operations and maintenance phase of the Project. Both agreements have been reviewed and approved as to form by County Counsel. The standard Board-directed clauses that provide for contract termination, renegotiation, and hiring qualified displaced County employees will be included in the agreements.

On March 29, 2011, the Request for Proposals (RFP) for design-build and operations and maintenance energy services contracts was advertised. This contract opportunity was also listed in the County's Doing Business with Us website. The first phase of the RFP process was submission of prequalification questionnaires.

On April 28, 2011, 12 firms submitted the prequalification questionnaires for evaluation. The prequalification questionnaires were evaluated by the evaluation committee consisting of representatives from the CEO and Public Works, based on responses to questions concerning the business type and ownership of each design-build entity, evidence of the design-builder's experience and capacity to perform projects of similar size and complexity, licenses, registration, credentials, the capacity to obtain payment and performance bonding, errors and omissions, insurance, violations of State and Federal labor codes and safety regulations, debarment, default, bankruptcy, lawsuits on Public Works' projects in the past five years, and other relevant criteria. Based on the review and evaluation of the prequalification questionnaires, all 12 firms were prequalified. In accordance with the short-listing requirements in the RFP, the five top-ranked firms were short-listed and invited to submit technical and cost proposals. Subsequently, one of the five invited firms requested to be withdrawn.

The second phase of the RFP process was submission of technical and cost proposals by the top four prequalified firms. On June 20, 2011, the four firms submitted technical and cost proposals for evaluation. The technical and cost proposals were evaluated by a panel of representatives from the CEO and Public Works, based on the technical design and construction experience, price, skilled labor force availability, safety record, price, design-build team personnel and organization, proposed work plan and schedule, and oral presentation.

Final ranking of proposers is listed in Attachment B. SunPower was found to have submitted the best value and most advantageous proposal to perform these services in accordance with the evaluation criteria stated in the RFPs. These evaluations were completed without regard to race, creed, color, or gender.

The design-build and operations and maintenance energy service contracts and the facility financing contract are allowed by and prepared based on California Government Code, Sections 4217.10 through 4217.18, Chapter 3.2, Energy Conservation Contracts, which allows public agencies to enter into an energy service contract "on terms that its governing body determines are in the best interests of the public agency if the determination is made at a regularly scheduled public hearing, public notice of which is given at least two weeks in advance, and if the governing body finds:...that the anticipated cost to the public agency for thermal or electrical energy ... provided by the energy conservation facility under the contract will be less than the anticipated marginal cost to the public agency of thermal, electrical, or other energy that would have been consumed by the public agency in the absence of those purchases." Public Works filed the required Public Notice on August 9, 2011 on the County's Doing Business With Us website to comply with this notice requirement.

The Energy Conservation Contracts statute is intended to "provide the greatest possible flexibility" to public agencies in structuring energy service contracts "so that economic benefits may be maximized, and financing and other costs associated with the design and construction of alternate energy projects may be minimized."

As required by the aforementioned statute, the cost analysis performed (Attachment D) has shown that the electrical energy cost provided by the solar plants will be less than the electrical energy cost to the County provided by the existing energy provider.

SunPower's Community Business Enterprises participation data (30.5 percent) and 3-year contracting history with the County are on file with Public Works.

Public Works' Architectural Engineering Division will provide the technical design review and commissioning monitoring services during construction with assistance from the specialty consultants obtained through the Board-approved as-needed agreements or through the RFP process.

The Honorable Board of Supervisors
August 23, 2011
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IMPACT ON CURRENT SERVICES (OR PROJECTS)

There will be no impact on current County services or projects during the performance of the recommended services.

CONCLUSION

Please return one adopted copy of this letter to the Chief Executive Office, Capital Projects Division; and Public Works, Project Management Division II.

Respectfully submitted,



WILLIAM T FUJIOKA
Chief Executive Officer

WTF:RLR:DJT
SW:PB:zu

Attachments

c: Executive Office, Board of Supervisors
County Counsel
Auditor-Controller
Arts Commission
Public Works
Treasurer and Tax Collector

August 23, 2011

ATTACHMENT A

**DEPARTMENT OF PUBLIC WORKS:
HIGH DESERT COMPLEX SOLAR PROJECT
CITY OF LANCASTER
ADOPT MITIGATED NEGATIVE DECLARATION
APPROVE PROJECT AND PROJECT BUDGET
AUTHORIZE USE OF LEASE-PURCHASE FINANCING
AWARD DESIGN-BUILD AND OPERATIONS AND MAINTENANCE ENERGY
SERVICE CONTRACTS
MAKE FINDINGS OF PROJECT SELF-FUNDING
CAPITAL PROJECT NO. 67940; SPECS. 7147
(FIFTH DISTRICT) (3 VOTES)**

I. PROJECT SCHEDULE

Project Activity	Scheduled Completion Date
Request for Proposals – Part A (Qualifications)	05/02/11
Request for Proposals – Part B (Cost and Technical)	06/20/11
Award	08/23/11
Construction Substantial Completion: Mira Loma Detention Center	04/30/12
Challenger Memorial Youth Center	06/01/12
Operations and Maintenance Completion: Mira Loma Detention Center	04/30/22
Challenger Memorial Youth Center	06/01/22
Acceptance (Construction): Mira Loma Detention Center	06/30/12
Challenger Memorial Youth Center	08/01/12
Acceptance (Operations and Maintenance): Mira Loma Detention Center	06/30/22
Challenger Memorial Youth Center	08/01/22

II. PROJECT BUDGET SUMMARY

Budget Category	Project Budget
Land Acquisition	\$ 0
Construction	
Design Build	\$ 10,975,302.50
Change Orders (10 percent)	\$ 1,097,530.50
Departmental Crafts	\$ 0
Youth Employment	\$ 0
Make Ready Work	\$ 0
Construction Consultants	\$ 0
Miscellaneous Expense	\$ 13,581
Soil/Hazardous Material Removal	\$ 222,160
Gordian Group	\$ 0
Subtotal	\$ 12,308,574
Plans and Specifications	
A/E Fee	\$ 0
A/E Optional Services	\$ 0
Construction Administration	\$ 0
Subtotal	\$ 0
Consultant Services	
Deputy Inspection	\$ 40,000
Geotechnical/Geological Investigation	\$ 0
Hazardous Materials	\$ 75,000
Geotech/Soils Test	\$ 0
Material Testing	\$ 0
Cost Estimating	\$ 50,000
Topographic Surveys	\$ 0
Construction Management	\$ 0
Construction Administration	\$ 113,000
Support Services (Labor Compliance)	\$ 70,000
Constructability Review	\$ 0
Legal	\$ 0
Scheduling	\$ 30,000
Contract/Change Order	\$ 0
Consultant Services	\$ 0
Other	\$ 0
Subtotal	\$ 378,000

II. PROJECT BUDGET SUMMARY (continued)

Budget Category	Project Budget
Miscellaneous Expenditures	
Affirmative Action	\$ 15,000
Printing and Legal Advertising	\$ 10,000
Furniture, Fixtures, and Equipment	\$ 0
Subtotal	\$ 25,000
Jurisdictional Review/Plan Check/Permit	
Building and Safety Division	
Building and Safety Plan Check/Permits	\$ 40,000
AQMD	\$ 5,000
Fire Department Inspection	\$ 5,000
Regional Planning	\$ 3,000
Environmental Programs Division	\$ 5,000
Geotechnical and Materials Engineering Division	\$ 5,000
Subtotal	\$ 63,000
County Services	
Architectural and Engineering Division	
Construction Inspection Services	\$ 212,160
Design Review	\$ 50,000
Design Services	\$ 0
Contract Administration	\$ 48,750
AED Support Services	\$ 150,000
Project Management	\$ 368,000
Project Management Support Services	\$ 0
Secretarial	\$ 24,291
Document Control	\$ 158,156
Project Technical Support	\$ 59,311
Consultant Contract Recovery	\$ 49,758
Support Services (Office of Affirmative Action)	\$ 5,000
Subtotal	\$ 1,125,426
Total	\$ 13,900,000

August 23, 2011

ATTACHMENT B

**DEPARTMENT OF PUBLIC WORKS:
HIGH DESERT COMPLEX SOLAR PROJECT
CITY OF LANCASTER
ADOPT MITIGATED NEGATIVE DECLARATION
APPROVE PROJECT AND PROJECT BUDGET
AUTHORIZE USE OF LEASE-PURCHASE FINANCING
AWARD DESIGN-BUILD AND OPERATIONS AND MAINTENANCE ENERGY
SERVICE CONTRACTS
MAKE FINDINGS OF PROJECT SELF-FUNDING
CAPITAL PROJECT NO. 67940; SPECS. 7147
(FIFTH DISTRICT) (3 VOTES)**

The Project consists of site preparation and installation of two 1-MW solar photovoltaic solar tracking panels, which are to be installed on vacant County-owned land located between the Mira Loma Detention Center and the Challenger Memorial Youth Center.

Request for Proposal Date:

March 28, 2011

Proposer Ranking from Most Advantageous to Least:

1. SunPower Corporation, Systems
2. Abacus Project Management, Inc.
3. Morrow-Meadows Corporation
4. SPG Solar, Inc.

The design-build and operations and maintenance energy service contracts will be issued to SunPower for a total of \$11,505,942.50 (\$10,975,302.50 for design-build services contract, including \$250,000 design completion allowance; \$530,640 for operations and maintenance contract, for 120 months of operations and maintenance services).

August 23, 2011

ATTACHMENT C

**HIGH DESERT COMPLEX SOLAR PROJECT
CITY OF LANCASTER
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CAPITAL PROJECT NO. 67940; SPECS. 7147**

SELF-FUNDING ANALYSIS – 2 MW HIGH DESERT COMPLEX

LA COUNTY Self-Funding Solar - 2 MW High Desert Complex

ENERGY SAVINGS										REPAYMENT OF BONDS										COUNTY BENEFIT	
Estimated System Size (kWp) = 2,260										SunPower Design Build Contract \$ 10,975,302										25-YR LCOE = \$0.094	
Installed Price per Watt = \$4.86										Other Project Costs = \$ 2,924,698										(Levelized Cost of Energy)	
Solar kWh Generated (First Yr) 5,435,555										Cost of Issuance = \$ 100,000											
Annual Rate of PV Degradation 0.50%										Total QECBs Issued \$ 14,000,000											
% of Production Achieved = 100%										Net Interest Cost Estimate on = 8/1/2011										Over Bond Term:	
Value of Solar / kWh (Avoided Cost) \$0.1153										8yr Treas Swap 2.52%										Gross Savings = \$ 1,872,031	
Annual Electricity Inflation 3.00%										Add: Proposed Spread 2.16%										17-Year NPV = \$ 1,297,655	
CSI Rebate \$0.190										Taxable Interest Rate to Bank 4.68%											
										Tax Cr Rate = -4.96%											
										70% Direct Pay by Fed = -3.47%											
Cost of O&M Contract (\$/Wp) fixed										Net Interest Cost on QECBs = 1.21%										Over 25 Years	
O&M Escalation Rate (beg Yr 11) 3.00%																				Gross Savings = \$ 9,365,020	
																				25-Year NPV = \$ 5,260,738	
										</											

August 23, 2011

ATTACHMENT D

**HIGH DESERT COMPLEX SOLAR PROJECT
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MAKE FINDINGS OF PROJECT SELF-FUNDING
CAPITAL PROJECT NO. 67940; SPECS. 7147**

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF
THE COUNTY OF LOS ANGELES, CALIFORNIA,
AUTHORIZING THE EXECUTION AND DELIVERY OF A
TAXABLE QECB EQUIPMENT LEASE/PURCHASE
AGREEMENT (DIRECT SUBSIDY) WITH RESPECT TO THE
ACQUISITION, PURCHASE, FINANCING AND LEASING OF
CERTAIN ENERGY CONSERVATION EQUIPMENT;
AUTHORIZING THE EXECUTION AND DELIVERY OF A
PURCHASE CONTRACT, ACQUISITION FUND
AGREEMENT AND OTHER DOCUMENTS REQUIRED IN
CONNECTION THEREWITH; FINDINGS PURSUANT TO
SECTION 4217.13 OF THE CALIFORNIA GOVERNMENT
CODE; AND AUTHORIZING THE TAKING OF ALL OTHER
ACTIONS NECESSARY TO THE CONSUMMATION OF THE
TRANSACTIONS CONTEMPLATED BY THIS RESOLUTION.**

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF LOS ANGELES, CALIFORNIA, AUTHORIZING THE EXECUTION AND DELIVERY OF A TAXABLE QECB EQUIPMENT LEASE/PURCHASE AGREEMENT (DIRECT SUBSIDY) WITH RESPECT TO THE ACQUISITION, PURCHASE, FINANCING AND LEASING OF CERTAIN ENERGY CONSERVATION EQUIPMENT; AUTHORIZING THE EXECUTION AND DELIVERY OF A PURCHASE CONTRACT, ACQUISITION FUND AGREEMENT AND OTHER DOCUMENTS REQUIRED IN CONNECTION THEREWITH; FINDINGS PURSUANT TO SECTION 4217.13 OF THE CALIFORNIA GOVERNMENT CODE; AND AUTHORIZING THE TAKING OF ALL OTHER ACTIONS NECESSARY TO THE CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED BY THIS RESOLUTION.

WHEREAS, the County of Los Angeles (the "*County*"), a political subdivision of the State of California, is authorized by its Los Angeles County Charter and the laws of the State of California to lease, purchase, acquire and install the Energy Conservation Equipment (herein described) on County-owned land and to enter into contracts with respect thereto; and

WHEREAS, the County desires to lease and purchase certain equipment and other personal property with an aggregate cost not to exceed \$14,000,000 for two 1-megawatt solar photovoltaic plants (collectively, the "*Energy Conservation Equipment*") on County-owned vacant land located between the Mira Loma Detention Center and the Challenger Memorial Youth Center in the City of Lancaster, California, that constitute a qualified energy conservation project that qualifies as a "qualified conservation purpose" under Section 54D(f) of the Internal Revenue Code of 1986, as amended (the "*Code*"); and

WHEREAS, pursuant to Section 4217.13 of the California Government Code and other applicable provisions of law, the Board of Supervisors has caused a Notice of Public Hearing to be duly given by the County's Board of Public Works on August 9, 2011, a date at least two weeks prior to its public hearing described therein, and has held such public hearing on the date hereof concerning the County's entering into a facility financing contract pursuant to Section 4217.13 and at the hearing has found and determined that the funds for the repayment of the financing of the equipment and other property to be financed by the Agreement (described below) are projected to be available from amounts that otherwise would have been used for the purchase of electrical, thermal or other energy required by the County in the absence of the Energy Conservation Equipment; and

WHEREAS, in connection with the financing of the acquisition and installation of the Energy Conservation Equipment, Banc of America Leasing & Capital, LLC (in such capacity, the "*Offeror*") has submitted to the County its written offer that, upon acceptance by the County, will constitute a binding written contract (the "*Purchase Contract*") to enter into that certain Taxable QECB Equipment Lease/Purchase Agreement (Direct Subsidy) (the "*Agreement*") between the County and Banc of America Leasing & Capital, LLC (or one of its affiliates) (in such capacity, the "*Lessor*") and that certain Acquisition Fund and Account Control Agreement (the "*Acquisition Fund Agreement*") among the County, the Lessor and the Acquisition Fund

Custodian therein identified, and the Purchase Contract executed by the Offeror and the forms of the Agreement and the Acquisition Fund Agreement have been presented to the Board of Supervisors of the County of Los Angeles at this meeting; and

WHEREAS, the County desires to designate the aggregate principal component of Rental Payments under the Agreement for purposes Section 54D(a)(3) of the Code as a "*qualified energy conservation bond*" within the meaning of Section 54D(a) of the Code; and

WHEREAS, the County desires to receive direct cash subsidy payments from the United States Department of Treasury as provided by Section 6431 of the Code with respect to the Agreement and, in that connection, to irrevocably elect to have Section 6431(f) of the Code apply to the Agreement; and

WHEREAS, the Board of Supervisors of the County of Los Angeles deems it for the benefit of the County and for the efficient and effective administration thereof to enter into the Purchase Contract, the Agreement and the Acquisition Fund Agreement (collectively, the "*Financing Agreements*") and the documentation related to the financing of the Energy Conservation Equipment on the terms and conditions therein provided;

NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF LOS ANGELES DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOWS:

Section 1. Defined Terms. Capitalized terms that are used, but not defined, in this Resolution shall have the same meaning as when such terms are used in the preambles to this Resolution.

Section 2. Approval and Authorization of Purchase Contract. The form, terms and provisions of the Purchase Contract are hereby approved and the Treasurer and Tax Collector of the County is hereby authorized and directed to accept, execute and deliver the Purchase Contract for and on behalf of the County, with such insertions, omissions and changes as shall be approved by the Treasurer and Tax Collector. The Purchase Contract shall be effective and binding on the County upon such acceptance, execution and delivery on behalf of the County.

Section 3. Approval and Authorization of Agreement and Acquisition Fund Agreement. The form, terms and provisions of the Agreement and the Acquisition Fund Agreement are hereby approved in substantially the forms presented at this meeting, with such insertions, omissions and changes as shall be approved by the Treasurer and Tax Collector of the County, with the execution of each such agreement being conclusive evidence of such approval. The Treasurer and Tax Collector is hereby authorized and directed to execute, and the Executive Officer-Clerk of the Board of Supervisors of the County of Los Angeles, or any duly authorized Deputy is hereby authorized and directed to attest, the Agreement (including any related Exhibits attached thereto) and the Acquisition Fund Agreement and to deliver the Agreement (including such Exhibits) and the Acquisition Fund Agreement to the respective parties thereto.

Section 4. Designation for Purposes of Section 54D(a)(3) of the Internal Revenue Code of 1986; Irrevocable Election. The County hereby designates the Agreement for purposes Section 54D(a)(3) of the Code as a “*qualified energy conservation bond*” within the meaning of Section 54D(a) of the Code. The County hereby further irrevocably elects to have Section 6431(f) of the Code apply to the Agreement.

Section 5. Ratification of Findings. The Board of Supervisors of the County hereby ratifies its finding and determination made at a public hearing held in accordance with the provisions of Section 4217.13 of the California Government Code that the funds for the repayment of the financing of the Energy Conservation Equipment to be financed by the Agreement are projected to be available from revenues resulting from funding that otherwise would have been used for the purchase of electrical, thermal or other energy required by the County in the absence of such Energy Conservation Equipment. This finding and determination is made in complete satisfaction of the requirements of said Section 4217.13.

Section 6. Other Actions Authorized. The officers and employees of the County shall take all action necessary or reasonably required by the parties to the Financing Agreements to carry out, give effect to and consummate the transactions contemplated thereby (including the execution and delivery of Disbursement Requests, Final Acceptance Certificate and any tax certificate and agreement, as contemplated in the Agreement) and to take all action necessary in conformity therewith, including, without limitation, the execution and delivery of any closing and other documents required to be delivered in connection with any of the Financing Agreements.

Section 7. Appointment of Authorized Lessee Representatives. The Treasurer and Tax Collector of the County of Los Angeles is hereby designated to act as authorized representative of the County for purposes of the Agreement and the Acquisition Fund Agreement until such time as the Board of Supervisors of the County of Los Angeles shall designate any other or different authorized representative for purposes of the Agreement and the Acquisition Fund Agreement.

Section 8. Severability. If any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution.

Section 9. Effective Date. This Resolution shall be effective immediately upon its passage.

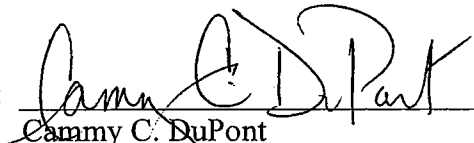
The foregoing Resolution was, on the ____ day of August, 2011, adopted by the Board of Supervisors of the County of Los Angeles and *ex officio* the governing body of all other special assessment and taxing districts, agencies and authorities for which said Board so acts.

Sachi A. Hamai,
Executive Officer-Clerk of the Board of
Supervisors of the County of Los Angeles

By: _____
Deputy

APPROVED AS TO FORM:

ANDREA SHERIDAN ORDIN
COUNTY COUNSEL

By: 
Cammy C. DuPont
Principal Deputy County Counsel

August 23, 2011

ATTACHMENT E

**HIGH DESERT COMPLEX SOLAR PROJECT
CITY OF LANCASTER
ADOPT MITIGATED NEGATIVE DECLARATION
APPROVE PROJECT AND PROJECT BUDGET
AUTHORIZE USE OF LEASE-PURCHASE FINANCING
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MAKE FINDINGS OF PROJECT SELF-FUNDING
CAPITAL PROJECT NO. 67940; SPECS. 7147**

**FORM OF TAXABLE QECB
EQUIPMENT LEASE/PURCHASE AGREEMENT (DIRECT SUBSIDY)**

**TAXABLE QECB
EQUIPMENT LEASE/PURCHASE AGREEMENT (DIRECT SUBSIDY)**

This Taxable QECB Lease/Purchase Agreement (Direct Subsidy) dated as of _____, 2011 (this "*Agreement*"), entered into by and between Banc of America Leasing & Capital, LLC, a Delaware limited liability company ("*Lessor*"), and the County of Los Angeles, a political subdivision of the State of California ("*Lessee*"),

WITNESSETH:

WHEREAS, Lessee desires to lease, purchase and acquire from Lessor certain Energy Conservation Equipment (as such term is defined herein), subject to the terms and conditions hereof; and

WHEREAS, Lessee is authorized and empowered under Article III, Section 10 of the Los Angeles County Charter and applicable provisions of California law, including (without limitation) Sections 23004(c) and 23004(d) of the California Government Code, to lease, purchase, acquire and install the Energy Conservation Equipment on County-owned land as herein provided;

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, and in consideration of the premises hereinafter contained, the parties hereby agree as follows:

ARTICLE I

Section 1.01. Definitions. The following terms will have the meanings indicated below unless the context clearly requires otherwise:

"*Acceptance Date*" means, with respect to the items of Energy Conservation Equipment identified in a Disbursement Request, the date that Lessee identifies to Lessor and the Acquisition Fund Custodian and certifies as the date on which Equipment Acceptance with respect to such items of Energy Conservation Equipment has occurred and for which disbursement from the Acquisition Fund is then requested in accordance with such Disbursement Request pursuant to the Acquisition Fund Agreement.

"*Acquisition Amount*" means \$_____. The Acquisition Amount is the amount represented by Lessee to be sufficient, together with other funds of Lessee (if any) that are legally available for the purpose, to acquire and install the Energy Conservation Equipment and to pay Delivery Costs.

"*Acquisition Fund*" means the fund established and held by the Acquisition Fund Custodian pursuant to the Acquisition Fund Agreement.

"*Acquisition Fund Agreement*" means the Acquisition Fund and Account Control Agreement in form and substance acceptable to and executed by Lessee, Lessor and the

Acquisition Fund Custodian, pursuant to which an Acquisition Fund and a Delivery Costs Fund are established and administered.

"Acquisition Fund Custodian" means the Acquisition Fund Custodian identified in the Acquisition Fund Agreement, and its successors and assigns.

"Acquisition Period" means the period ending five (5) business days prior to [June 1], 2012.

"Agreement" means this Taxable QECB Equipment Lease/Purchase Agreement (Direct Subsidy), including the exhibits hereto, together with any amendments and modifications to this Agreement pursuant to Section 13.04.

"Available Project Proceeds" means (a) the proceeds from the sale of this Agreement, less (b) Delivery Costs (not exceeding 2% of the proceeds of such sale) plus (c) investment earnings on the amount representing the difference between (a) minus (b).

"Code" means the Internal Revenue Code of 1986, as amended. Each reference to a Section of the Code herein shall be deemed to include the United States Treasury Regulations and Internal Revenue Service Notices dealing with Sections 54A, 54D and 6431 of the Code, including Internal Revenue Service Notice 2010-35.

"Contract Rate" means the rate identified as such in the Payment Schedule.

"Default Rate" means a rate of interest equal to the lesser of (a) the sum of the Contract Rate plus 3% or (b) the maximum rate permitted by law.

"Delivery Costs" means the costs incurred in connection with the execution and delivery of this Agreement, including placement agent/solar consultant fee, counsel fees, fees and expenses of the Acquisition Fund Custodian and similar costs, fees and expenses.

"Disbursement Request" means, with respect to the items of Energy Conservation Equipment therein identified, a Disbursement Request substantially in the form attached as Schedule 1 to the Acquisition Fund Agreement.

"Energy Conservation Equipment" means (a) the property listed in the Equipment Schedule; (b) any other property that is acquired and installed with Available Project Proceeds pursuant to Section 4.06(a); and (c) all replacements, repairs, restorations, modifications and improvements to any of the property described in the foregoing clause (a) or (b) that is made pursuant to Section 8.01 or Article V. Whenever reference is made in this Agreement to Energy Conservation Equipment, such reference shall be deemed to include all such replacements, repairs, restorations, modifications and improvements of or to such Equipment.

"Equipment Acceptance" means, with respect to each portion of the Energy Conservation Equipment that may operate for its intended purpose as a separate and independent functional unit, that the Energy Conservation Equipment constituting such portion has been acquired and

installed by the Vendor, is operating in a manner consistent with the manufacturer's intended use and has been inspected and finally accepted by Lessee for all purposes of this Agreement.

"Equipment Costs" means the total cost of the Energy Conservation Equipment, including related costs such as freight, installation and taxes and other capitalizable costs incurred in connection with the acquisition, installation and/or financing of the Energy Conservation Equipment.

"Equipment Schedule" means the equipment schedule attached hereto as Exhibit A and made a part hereof.

"Event of Default" means an Event of Default described in Section 12.01.

"Expenditure Period" means the "expenditure period" defined in Section 54A(d)(2)(B)(ii) of the Code and consists of the period beginning on the Funding Date and ending on the later of the date three years after the Funding Date or such later date, if any, as permitted by the Secretary of the Treasury in response to a request to extend the Expenditure Period.

"Funding Date" means _____, 2011, which is the date on which the Acquisition Amount is deposited with the Acquisition Fund Custodian in accordance with Section 3.04(c).

"Lease Term" means the period that begins on the Funding Date and ends on the first business day after the last scheduled Rental Payment Date, subject to extension as provided in Sections 3.03 and 4.01(b); *provided* that in no event shall any such extension result in the Lease Term exceeding the lesser of two additional years or the maximum term established by the Secretary of the Treasury that is applicable to this Agreement.

"Lessee" means the entity referred to as Lessee in the first paragraph of this Agreement.

"Lessor" means (a) the entity referred to as Lessor in the first paragraph of this Agreement or (b) any assignee or transferee of any right, title or interest of Lessor in and to this Agreement pursuant to Section 11.01 hereof, including the right, title and interest of Lessor in and to the Energy Conservation Equipment, the Rental Payments and other amounts due hereunder and the Acquisition Fund and the Delivery Costs Fund, but does not include any entity solely by reason of that entity retaining or assuming any obligation of Lessor to perform hereunder.

"Material Adverse Change" means a downgrade of two or more sub-grades on any of Lessee's publicly available long-term general obligation bond ratings or any of Lessee's other long-term general fund related bond ratings by either Moody's Investors Service, Inc. or Standard & Poor's Ratings Group or, if neither such rating agency publishes such ratings at the date of determination, any other nationally recognized statistical rating organization that is selected by Lessee for purposes of such long-term general obligation bond ratings and long-term general fund related bond ratings.

"Payment Schedule" means the Rental Payments Schedule attached hereto as Exhibit B and made a part hereof.

"Prepayment Price" means the amount that Lessee shall pay to Lessor to prepay its obligations under this Agreement as provided in Section 10.01.

"Principal Component" means, as of any date of calculation, the aggregate principal amount of the Rental Payments then unpaid, which equals \$_____ as of the Funding Date.

"Qualified Energy Conservation Project" means the cost of acquiring and installing the qualified energy conservation project that qualifies as a *"qualified conservation purpose"* under Section 54D(f) of the Code, and has been approved for financing pursuant to notifications to Lessee from the California Debt Limit Allocation Committee dated _____.

"Rental Payment Commencement Date" means the date on which all of the Energy Conservation Equipment is substantially available for Lessee's beneficial use and enjoyment or _____, 2012, whichever is later, which is the date Lessee becomes obligated to commence payment of Rental Payments in accordance with the Payment Schedule pursuant to Section 4.01(a) hereof.

"Rental Payment Date" means each _____ and _____, commencing on the first _____ or _____, as applicable, that occurs on or after the Rental Payment Commencement Date, on which Lessee is required to make a Rental Payment under the Agreement as specified in the Payment Schedule.

"Rental Payments" means the basic rental payments payable by Lessee pursuant to the Agreement on the Rental Payment Dates and in the amounts as specified in the Payment Schedule, consisting of a principal component and an interest component, sufficient to repay the Principal Component and interest thereon at the Contract Rate.

"State" means the State of California.

"Vendor" means the manufacturer, installer or supplier of the Energy Conservation Equipment or any other person as well as the agents or dealers of the manufacturer, installer or supplier with whom Lessor arranged Lessee's acquisition, installation, maintenance and/or servicing of the Energy Conservation Equipment.

"Vendor Agreement" means any contract entered into by Lessee and any Vendor for the acquisition, installation, maintenance and/or servicing of the Energy Conservation Equipment.

"Vendor Payment Date" means the date on which a Vendor or Lessee (in the case of reimbursement) receives payment from amounts disbursed pursuant to the Acquisition Fund Agreement.

ARTICLE II

Section 2.01. Representations and Covenants of Lessee. Lessee represents, covenants and warrants for the benefit of Lessor on the date hereof as follows:

(a) Lessee is a political subdivision of the State, with full power and authority to enter into this Agreement and the Acquisition Fund Agreement and the transactions contemplated hereby and thereby and to perform all of its obligations hereunder and thereunder.

(b) Lessee has duly authorized the execution and delivery of this Agreement and the Acquisition Fund Agreement by proper action of its Board of Supervisors at a meeting duly called, regularly convened and attended throughout by the requisite quorum of the members thereof, or by other appropriate official approval, and all requirements have been met and procedures have occurred in order to ensure the validity and enforceability of this Agreement and the Acquisition Fund Agreement.

(c) No event or condition that constitutes, or with the giving of notice or the lapse of time or both would constitute, an Event of Default exists at the date hereof.

(d) Lessee will do or cause to be done all things necessary to preserve and keep in full force and effect its existence as a county and political subdivision of the State.

(e) Lessee has complied or will comply with such public bidding requirements as may be applicable to this Agreement and the acquisition by Lessee of the Energy Conservation Equipment.

(f) During the Lease Term, the Energy Conservation Equipment will be used by Lessee only for the purpose of performing essential governmental or proprietary functions of Lessee consistent with the permissible scope of Lessee's authority.

(g) Lessee has kept, and throughout the Lease Term shall keep, its books and records in accordance with generally accepted accounting principles and practices consistently applied, and shall make available to Lessor (i) annual audited financial statements (including (1) a balance sheet, (2) statement of revenues, expenses and changes in fund balances for budget and actual, (3) statement of cash flows, and (4) footnotes, schedules and attachments to the financial statements) within 240 days of its fiscal year end, (ii) such other financial statements and information as Lessor may reasonably request, and (iii) upon Lessor's request, its annual proposed budget for the following fiscal year no later than 30 days prior to its then current fiscal year end and its annual final budget for the following fiscal year within 30 days after its approval. The financial statements described in this subsection (g) shall be accompanied by an unqualified opinion of Lessee's auditor. Credit information relating to Lessee may be disseminated among Lessor and any of its affiliates and any of their respective successors and assigns.

(h) Lessee has a need for the Energy Conservation Equipment and expects to make immediate use of the Energy Conservation Equipment upon its installation. Lessee's need for the Energy Conservation Equipment is not temporary and Lessee does not expect the need for any item of the Energy Conservation Equipment to diminish during the Lease Term.

(i) To the best knowledge of Lessee, there is no pending litigation, tax claim, proceeding or dispute that may materially adversely affect Lessee's financial condition or impairs its ability to perform its obligations under this Agreement or the Acquisition Fund Agreement. Lessee will, at its expense, maintain its legal existence and do any further act and execute, acknowledge, deliver, file, register and record any further documents Lessor may reasonably request in order to protect Lessor's first priority security interest in the Energy Conservation Equipment, the Acquisition Fund and the Delivery Costs Fund and Lessor's rights and benefits under this Agreement and the Acquisition Fund Agreement.

(j) Lessee is the fee owner of the real estate where the Energy Conservation Equipment is and will be located and has good and marketable title thereto, and there exists no mortgage, pledge, lien, security interest, charge or other encumbrance of any nature whatsoever on or with respect to such real estate, except _____.

(k) Lessee has received allocation of a portion of the national qualified energy conservation bond limitation in the aggregate amount of \$39,017,976.83 (of which \$[14,000,000] will be designated to this Agreement) and documentation with respect to such allocation has been provided for inclusion in the transcript for this Agreement.

(l) No lease, rental agreement, lease-purchase agreement, payment agreement or contract for purchase to which Lessee has been a party at any time has been terminated by Lessee as a result of insufficient funds being appropriated in any fiscal year. No payment default has occurred under any debt, revenue bond or obligation which Lessee has issued during the past ten (10) years, and no non-payment default of a material nature has occurred during the past ten (10) years.

ARTICLE III

Section 3.01. Lease of Energy Conservation Equipment. Subject to the terms of this Agreement, Lessor agrees to provide the Acquisition Amount to acquire and install the Energy Conservation Equipment and pay the Delivery Costs. Lessor hereby demises, leases, transfers and lets to Lessee, and Lessee hereby acquires, rents and leases from Lessor, the Energy Conservation Equipment for the Lease Term.

Section 3.02. Continuation of Lease Term. Lessee intends, subject to Section 3.03, to continue the Lease Term and to pay the Rental Payments under this Agreement. Lessee affirms that sufficient funds are available for its current fiscal year to pay any Rental Payments when due during the current fiscal year, and Lessee reasonably believes that an amount sufficient to make

all Rental Payments during the entire Lease Term can be obtained from legally available funds of Lessee.

Section 3.03. Abatement. During any period in which, by reason of material damage or destruction or taking under the power of eminent domain (or sale to any entity threatening the use of such power) or material title defect with respect to any Energy Conservation Equipment, there is substantial interference with the beneficial use and enjoyment by Lessee of such Energy Conservation Equipment, the Rental Payments due under this Agreement shall be abated in the same proportion (including in whole) that the portion of such Energy Conservation Equipment that is unavailable for Lessee's beneficial use and enjoyment bears to all of the Energy Conservation Equipment. Lessee shall immediately notify Lessor upon the occurrence of any event causing substantial interference with Lessee's beneficial use and enjoyment of any Energy Conservation Equipment and the portion of the Energy Conservation Equipment that is so unavailable, and such notice shall be provided prior to the abatement of any Rental Payments under this Agreement. The amount of Rental Payments abated under this Agreement shall be such that the remaining Rental Payment obligation for each rental period represents fair consideration for the beneficial use and enjoyment of the portions of the Energy Conservation Equipment that are not affected by such interference. Such abatement shall commence on the date that Lessee's beneficial use and enjoyment of the affected Energy Conservation Equipment is restricted because of such interference and end on the earlier of (i) the date on which the beneficial use and enjoyment thereof are restored to Lessee, or (ii) the date on which Lessee either (x) replaces the affected Energy Conservation Equipment, (y) uses the proceeds of insurance or condemnation award to pay the applicable Prepayment Price therefor or (z) elects to pay the applicable Prepayment Price for the affected Energy Conservation Equipment pursuant to Section 10.01(b) if no insurance proceeds or condemnation award are available for purposes of the foregoing clause (y); *provided, however*, that the provisions of this Agreement, including (but not limited to) dates on which Rental Payments are due, shall be extended for a period equal to the shorter of the period the obligation to make Rental Payments was abated or two years; and *provided further, however*, that in no event shall any such extension result in the Lease Term exceeding the lesser of two years or the maximum term established by the Secretary of the Treasury that is applicable to the Agreement. Notwithstanding any such interference with Lessee's beneficial use and enjoyment of a portion of the Energy Conservation Equipment, this Agreement shall continue in full force and effect with respect to any remaining Energy Conservation Equipment.

Section 3.04. Conditions to Lessor's Performance. (a) As a prerequisite to the performance by Lessor of any of its obligations under this Agreement, Lessee shall deliver to Lessor the following:

- (i) An Acquisition Fund Agreement in the form set forth in Exhibit H hereto, satisfactory to Lessor and executed by Lessee and the Acquisition Fund Custodian;
- (ii) A certified copy of a resolution of Lessee's Board of Supervisors, in form and substance acceptable to Lessee and Lessor, authorizing the execution and delivery of this Agreement and the Acquisition Fund Agreement and performance by Lessee of its obligations under this Agreement and the Acquisition Fund Agreement;

(iii) A Certificate executed by the Executive Officer-Clerk of the Board of Supervisors of the County of Los Angeles or such officer's Deputy, in substantially the form attached hereto as Exhibit C, completed to the satisfaction of Lessor;

(iv) An opinion of counsel to Lessee in substantially the form attached hereto as Exhibit D and otherwise satisfactory to Lessor;

(v) Evidence of insurance as required by Section 7.02 hereof;

(vi) All documents, including financing statements, affidavits, notices and similar instruments, in form satisfactory to Lessor, which Lessor deems necessary or appropriate at that time pursuant to Section 6.02;

(vii) A copy of a fully completed and executed Form 8038-TC with respect to this Agreement in accordance with Section 4.05(g) hereof;

(viii) A certified copy of any Surety Bond satisfying the conditions set forth in Section 7.04; *provided, however*, that such delivery shall not be a condition precedent to Lessor's performance hereunder so long as any such Surety Bonds that satisfy the conditions under Section 7.04 are provided to Lessor prior to delivery of a Disbursement Request pursuant to the Acquisition Fund Agreement for Lessor's approval as therein provided; and

(ix) Such other items reasonably required by Lessor.

(b) In addition, the performance by Lessor of any of its obligations under this Agreement and the Acquisition Fund Agreement shall be subject to no Event of Default having occurred and be continuing since the Funding Date; *provided, however*, that nothing in this subsection (b) shall terminate Lessor's obligation under Section 5.02 with respect to the covenant of quiet enjoyment prior to the occurrence of an Event of Default.

(c) Subject to satisfaction of the foregoing, Lessor will deposit the Acquisition Amount with the Acquisition Fund Custodian for deposit into the Acquisition Fund and the Delivery Costs Fund as provided in the Acquisition Fund Agreement.

ARTICLE IV

Section 4.01. Rental Payments. (a) Lessee agrees, subject to Sections 3.03 and 4.01(b), to pay to Lessor beginning on the Rental Payment Commencement Date: (i) Rental Payments representing a principal component payable in the respective semiannual installments and on the respective Rental Payment Dates as indicated in the Payment Schedule under the column entitled "*Principal Component*" and (ii) Rental Payments representing an interest component in the respective semiannual installments and on the respective Rental Payment Dates as indicated in the Payment Schedule under the column entitled "*Interest Component*." To the extent that Lessee is not obligated pursuant to Section 4.01(b) to pay Rental Payments that are scheduled to be paid prior to the Rental Payment Commencement Date because less than all of the Energy

Conservation Equipment is substantially available and accepted for Lessee's use and enjoyment, Lessee agrees to pay to Lessor the amount by which such Rental Payments would be reduced as provided in Section 4.01(b) solely from moneys then in Lessee's general fund that are legally available and duly appropriated by Lessee's Board of Supervisors at its discretion, and not at its obligation, for such purpose. The failure or unwillingness (for whatever reason) of Lessee's Board of Supervisors to appropriate moneys to pay Rental Payments that would otherwise be reduced pursuant to Section 4.01(b) shall not constitute a default on the part of Lessee or change Lessee's obligation to pay the balance of Rental Payments in accordance with this Section 4.01(a).

(b) Lessee shall become obligated to pay Rental Payments (including to the extent allocable to Delivery Costs) as and to the extent that Energy Conservation Equipment is made available for Lessee's beneficial use and enjoyment and is accepted by Lessee for its beneficial use and enjoyment; *provided, however*, that nothing in this subsection (b) is intended, or shall be construed, to require Lessee to pay Rental Payments prior to _____, 2012. In the event that less than all of the Energy Conservation Equipment is made available for Lessee's beneficial use and enjoyment by _____, 2012 and Lessee accepts such portion of the Energy Conservation Equipment for its beneficial use and enjoyment prior to _____, 2012, any Rental Payments that are scheduled to be paid by Lessee pursuant to the Payment Schedule that relate to the period that is prior to the Rental Payment Commencement Date (and during which Lessee has beneficial use and enjoyment of less than all of the Energy Conservation Equipment) shall be prorated by Lessor for the period from _____, 2012 to the Rental Payment Commencement Date based upon a fraction the numerator of which equals the amount disbursed from the Acquisition Fund to pay the Equipment Costs for the Energy Conservation Equipment for which the Acceptance Date has occurred plus the portion of Delivery Costs allocable thereto and the denominator of which equals the total amount deposited into the Acquisition Fund and the Delivery Costs Fund on the Funding Date. The provisions of this Agreement shall be extended for a period equal to the shorter of the period during which Rental Payments are prorated or two years and the amount by which Rental Payments had been reduced on each scheduled Rental Payment Date prior to the Rental Payment Commencement Date shall be payable in such amounts on the same dates during the extension period as Rental Payments are due, unless such period during which Rental Payments are prorated is less than one year in which case the amount by which Rental Payments had been reduced shall be payable on the last Business Day of such period; *provided, however*, that in no event shall any such extension result in the Lease Term exceeding the lesser of two additional years or the maximum term established by the Secretary of the Treasury that is applicable to this Agreement, and in no event shall the amount of Rental Payments during any extension period exceed the highest Rental Payment shown on the Payment Schedule.

(c) Lessee covenants and agrees to include in the budget submitted to its Board of Supervisors for the fiscal year beginning July 1, 2012, prepared by the _____ acting on behalf of Lessee in accordance with applicable law, the amount necessary (after taking into account any moneys then legally available for such purpose) to pay the amount by which Rental Payments that are scheduled to be paid prior to the Rental Payment Commencement Date are expected to be reduced as provided in Section 4.01(b). The parties acknowledge that Lessee's Board of Supervisors will be under no obligation to adopt a budget or otherwise appropriate moneys to pay such amount.

(d) Subject to Sections 3.03 and 4.01(b), Lessee shall promptly pay Rental Payments from and after the Rental Payment Commencement Date, in lawful money of the United States of America, on the Rental Payment Dates and in such amounts as provided in the Payment Schedule, to Lessor by wire transfer in immediately available funds in accordance with wire payment instructions provided by Lessor to Lessee in writing or to such other place or in such other manner as may be designated by Lessor in writing to Lessee.

(e) Interest on the Acquisition Amount shall begin to accrue as of the Funding Date. Lessee shall pay Lessor a charge on any Rental Payment not paid on the date such payment is due at a rate equal to the Default Rate from such date to the date paid.

Section 4.02. Interest and Principal Components. A portion of each Rental Payment is paid as, and represents payment of, interest, and the balance of each Rental Payment is paid as, and represents payment of, principal as more fully detailed on the Payment Schedule.

Section 4.03. Rental Payments to Constitute a Current Expense of Lessee. The Rental Payment payable on a particular Rental Payment Date shall be for the period from the immediately preceding Rental Payment Date (or the respective Acceptance Dates in the case of the first Rental Payment Date) to such particular Rental Payment Date. For each fiscal year or portion thereof during the Lease Term, Rental Payments and other amounts payable under this Agreement shall constitute the total rentals for such fiscal year or portion thereof and shall be paid by Lessee for and in consideration of the right of use and possession, and the continued quiet use and enjoyment, of the Energy Conservation Equipment by Lessee for and during such fiscal year or portion thereof. Lessor and Lessee have agreed and determined that such rentals are not in excess of the fair rental value of the Energy Conservation Equipment. In making such determination, consideration has been given to the costs of acquiring and installing the Energy Conservation Equipment, the uses and purposes served by the Energy Conservation Equipment and the benefits therefrom that will accrue to Lessee by reason of this Agreement and to the general public by reason of Lessee's use of the Energy Conservation Equipment hereunder. Lessor and Lessee understand and intend that the obligation of Lessee to pay Rental Payments and other amounts payable under this Agreement shall constitute a current expense of Lessee payable solely from its general fund or other funds that are legally available for that purpose and shall not in any way be construed to be a debt of Lessee in contravention of any applicable constitutional or statutory limitation or requirement concerning the creation of indebtedness by Lessee, nor shall anything contained herein constitute a pledge of the general tax revenues, funds or moneys of Lessee.

Section 4.04. Rental Payments to be Unconditional. Except as provided in Sections 3.03 and 4.01(b), the obligations of Lessee to make Rental Payments and to perform and observe the other covenants and agreements contained in this Agreement shall be absolute and unconditional in all events without abatement, diminution, deduction, set-off or defense, for any reason, including without limitation any failure of the Energy Conservation Equipment, any defects, malfunctions, breakdowns or infirmities in the Energy Conservation Equipment, disputes with the Vendor of any Energy Conservation Equipment or Lessor, failure of the Vendor under any Vendor Agreement to perform any of its obligations thereunder for whatever reason, including bankruptcy, insolvency, reorganization or any similar event with respect to the Vendor under any

Vendor Agreement, the failure or inability (for whatever reason) of Lessee to receive (or delay in receipt of) all or any portion of the direct cash subsidy payment with respect to this Agreement as provided in Sections 4.05(f) and 4.05(i) hereof or any accident, condemnation or unforeseen circumstances.

Section 4.05. Tax Covenants. At all times during the Lease Term, Lessee shall comply with the following covenants as required to ensure that this Agreement constitutes a “*qualified energy conservation bond*” under and as defined in Sections 54A(d)(1)(C) and 54D of the Code:

(a) *Status as Local Government.* Lessee shall maintain its status as a local government as required by Section 54D(a)(2) of the Code.

(b) *Qualified Energy Conservation Project Requirement; Capital Expenditures.* One hundred percent (100%) of the Available Project Proceeds will be used for a Qualified Energy Conservation Project, as required by Section 54D(f) of the Code. Lessee shall design, acquire, install and operate the Energy Conservation Equipment in such a manner that the Energy Conservation Equipment will be a Qualified Energy Conservation Project.

(c) *Three Year Expenditure of Available Project Proceeds.* Lessee reasonably expects to expend 100% of the Available Project Proceeds on a Qualified Energy Conservation Project within the Expenditure Period. To the extent that less than 100% of the Available Project Proceeds are expended for a Qualified Energy Conservation Project by the end of the Expenditure Period, all nonqualified bonds (as determined under Section 142 of the Code) shall be prepaid within 90 days after the end of the Expenditure Period, all in accordance with the requirements of Section 54A(d)(2)(B) of the Code in the time and manner prescribed by the Code and as provided in Section 4.06 hereof.

(d) *Arbitrage Rebate.* Lessee will take any and all actions necessary to assure compliance with Section 148(f) of the Code, as modified by Section 54A(d)(4) of the Code, relating to the rebate of excess investment earnings, if any, to the federal government, to the extent that such Section is applicable to this Agreement.

(e) *No Arbitrage.* Lessee will not take, or permit or suffer to be taken, any action with respect to the proceeds of this Agreement which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the Funding Date would have caused this Agreement to be an “arbitrage bond” within the meaning of Section 148(a) of the Code, as modified by Section 54A(d)(4) of the Code.

(f) *I.R.S. Form 8038-CP.* Lessee acknowledges that, to receive certain payments with respect to this Agreement under Section 6431 of the Code, it must, among other requirements, periodically file appropriate returns, now designated Form 8038-CP, *Return for Credit Payments to Issuers of Qualified Bonds*, in accordance with the instructions to such return.

(g) *I.R.S. Information Reporting Return Form 8038-TC.* Lessee shall file or cause to be filed I.R.S. Form 8038-TC (and all other required information reporting returns) in a timely manner.

(h) *Designation.* Lessee designates this Agreement for purposes of Section 54D(a)(3) of the Code as a “*qualified energy conservation bond*” within the meaning of Section 54D(a) of the Code.

(i) *“Qualified Bond” Election with respect to this Agreement.* Lessee hereby irrevocably elects to have Section 6431(f) of the Code apply to this Agreement. Lessee hereby acknowledges that as a consequence of this election, Lessor (including its successors and assigns) will not be entitled to a tax credit as a result of ownership of this Agreement.

(j) *Binding Commitment to Spend Available Project Proceeds.* Lessee has entered into a binding commitment with a third party to spend at least 10% of the Available Project Proceeds with respect to “*qualified conservation purposes*” within the meaning of Section 54D(a)(1) of the Code.

(k) *Limitation on Delivery Costs.* No proceeds of this Agreement and investment earnings thereon, in an amount in excess of 2% of the proceeds of the sale of this Agreement, will be used to pay Delivery Costs. If the fees of Lessor are retained upon origination of this Agreement as a discount on the purchase of this Agreement, such retention shall be deemed to be an expenditure of proceeds for said fees.

(l) *Allocation of Qualified Energy Conservation Bond Limitation.* Lessee has received an allocation of a portion of the national qualified energy conservation bond limitation in the aggregate amount of \$39,017,976.83 (of which \$[14,000,000] will be designated to this Agreement). The maximum aggregate Principal Component of this Agreement designated as a “*qualified energy conservation bond*” under subsection (h) of this Section 4.05 for purposes of Section 54D(a)(3) of the Code does not exceed the amount of the national qualified energy conservation bond limitation allocated to Lessee under Section 54D(e) of the Code for calendar year 2010.

(m) *Limitation on Replacement Funds.* No fund or moneys are pledged to, or are reasonably expected to be used directly or indirectly to pay, Rental Payments or are reserved or otherwise set aside such that there is a reasonable assurance that such amounts will be available to pay Rental Payments will be funded with respect to the Agreement.

(n) *Davis-Bacon Act Compliance.* Lessee shall comply with the requirements of Title 40, Subtitle II, Part A, Chapter 31, Subchapter IV of the United States Code in connection with the acquisition and installation of the Energy Conservation Equipment.

(o) *No Private Activity.* Lessee shall assure that the Acquisition Amount and the Energy Conservation Equipment are not used in a manner that would cause this

Agreement to satisfy the private business tests of Section 141(b) of the Code or the private loan financing test of Section 141(c) of the Code.

(p) *Compliance with Conflicts of Interest Laws.* Lessee shall comply with all State and local law requirements governing conflicts of interest as such requirements may relate, directly or indirectly, to this Agreement. Lessee hereby covenants and agrees to comply with any conflict of interest rules prescribed by the Internal Revenue Service or United States Department of Treasury governing the appropriate Member of Congress and federal, State and local officials and their spouses as such rules may apply to this Agreement.

Section 4.06. Payment of Equipment Costs from Acquisition Fund; Mandatory Prepayment from Unspent Acquisition Fund Moneys. (a) Amounts on deposit in the Acquisition Fund may be expended for the payment of Equipment Costs for the Qualified Energy Conservation Project in accordance with the Acquisition Fund Agreement (subject to the last sentence of this subsection (a) below) to and including the earlier of (i) the expiration of the Acquisition Period, (ii) the date on which Lessee executes and delivers to Lessor the Final Acceptance Certificate pursuant to Section 5.01(a) hereof or (iii) the 90th day following the later of _____, 2014 or, if Lessee has obtained an extension for the expenditure of amounts in such Fund in accordance with Section 54A(d)(2) of the Code, the close of such extended period. All amounts remaining on deposit in the Acquisition Fund (herein referred to as the "Excess Amount") as of the earlier of such dates shall be applied by the Acquisition Fund Custodian as provided in the Acquisition Fund Agreement to prepay Rental Payments in whole or in part on a pro rata basis of the amount due on each Rental Payment Date, *provided, however,* that the Excess Amount shall not be applied to such prepayment but shall be applied to the payment of Equipment Costs for equipment and other personal property (other than the Equipment originally described on the Equipment Schedule) that constitutes a Qualified Energy Conservation Project so long as (A) Lessee has provided written notice to Lessor at least fifteen days prior to the earlier of the dates described in clauses (i) and (ii) above stating its intention to apply the Excess Amount to payment of Equipment Costs for such other Equipment in lieu of prepayment as herein provided and identifies such other Equipment to Lessor in reasonable detail; (B) to the extent Lessee desires in its sole discretion, Lessee has obtained an opinion of special tax counsel acceptable to Lessee to the effect that the use of the Excess Amount for such purpose will not adversely affect treatment of this Agreement as a "qualified energy conservation bond" under and as defined in Sections 54A(d)(1)(C) and 54D of the Code; (C) Lessee has obtained Lessor's prior written consent to the use of the Excess Amount for such purpose; and (D) such actions have been taken as Lessor may direct to assure that such other Equipment, the Equipment Costs of which are to be paid from the Excess Amount, is subject to the security interest granted by Lessee in Equipment as provided in Section 6.02. Notwithstanding the foregoing *proviso*, in the event that any Excess Amount remains on deposit in the Acquisition Fund on the date described in clause (iii) above, such Excess Amount shall be applied on such date to prepayment of Rental Payments in whole or in part as provided in this Section 4.06. The prepayment price with respect to any such prepayment in an amount of \$250,000 or less shall be equal to 100%, and in an amount in excess of \$250,000 shall be equal to [103]%, of the principal portion of the Rental Payments to be prepaid plus accrued interest on such prepaid principal portion to the prepayment date. Notwithstanding anything in this Agreement to the contrary, an amount may not be

disbursed from the Acquisition Fund to pay Equipment Costs relating to a portion of the Energy Conservation Equipment prior to the date on which Lessee has certified in the related Disbursement Request that the Acceptance Date has occurred with respect to such portion of Energy Conservation Equipment for which funds are requested for disbursement from the Acquisition Fund pursuant to the Acquisition Fund Agreement.

Lessee hereby acknowledges and agrees that prior to Equipment Acceptance any demands for payment of related Equipment Costs or any other amounts due to the Vendors shall be paid by Lessee from its own funds that are legally available for the purpose and not from funds held in the Acquisition Fund. Such funds so paid by the Lessee may be reimbursed as provided in this Agreement, subject to any limitations on any such reimbursement as otherwise provided in this Agreement.

(b) In connection with any prepayment pursuant to subsection (a) of this Section 4.06, Lessee shall pay the [prepayment premium and] interest portion of Rental Payments accrued to the prepayment date on such principal portion to be prepaid from funds (other than Available Project Funds) legally available to Lessee for that purpose, which at the discretion of Lessee's Board of Supervisors have been appropriated for that purpose.

(c) Lessee will give Lessor notice of any such prepayment in accordance with this Section 4.06 not less than 60 days in advance of the prepayment date.

Section 4.07: Covenant to Budget and appropriate: Lessee hereby covenants to take such action as is necessary under the laws applicable to Lessee to budget for and appropriate and maintain funds sufficient and available to discharge its obligation to meet all Rental Payments and pay other amounts that are required to be paid under this Agreement in each of its fiscal years during the Lease Term.

The covenants on the part of Lessee herein contained shall be deemed to be and shall be construed to be ministerial duties imposed by law and it shall be the duty of each and every public official of Lessee to take such action and do such things as are required by law in the performance of the official duty of such officials to enable Lessee to carry out and perform the covenants and agreements in this Agreement agreed to be carried out and performed by Lessee.

ARTICLE V

Section 5.01. Delivery, Installation and Acceptance of Energy Conservation Equipment.

(a) Lessee shall order the Energy Conservation Equipment, cause the Energy Conservation Equipment to be delivered and installed at the location or locations specified in the Equipment Schedule and pay any and all Equipment Costs and other delivery and installation costs in connection therewith. When items of Energy Conservation Equipment have been delivered and installed and are available for Lessee's beneficial use and enjoyment, Lessee shall promptly accept such Energy Conservation Equipment and evidence said acceptance by executing and delivering to Lessor a Disbursement Request as provided in the Acquisition Fund Agreement. Upon the occurrence of Equipment Acceptance for all of the Energy Conservation Equipment,

Lessee shall execute and deliver to Lessor a Final Acceptance Certificate in the form attached hereto as Exhibit E.

(b) Lessee shall deliver to Lessor original invoices (and proof of payment of such invoices if Lessee seeks reimbursement) relating to each item of Energy Conservation Equipment accepted by Lessee pursuant to the related Disbursement Request.

Section 5.02. Quiet Enjoyment of Energy Conservation Equipment. So long as Lessee is not in default hereunder, neither Lessor nor any entity claiming by, through or under Lessor, shall interfere with Lessee's quiet use and enjoyment of the Energy Conservation Equipment during the Lease Term.

Section 5.03. Location; Inspection. Once installed, no item of the Energy Conservation Equipment will be moved or relocated from the location specified for it in the Equipment Schedule without Lessor's prior written consent, which consent shall not be unreasonably withheld. Lessor shall have the right at all reasonable times during regular business hours to enter into and upon the property where the Energy Conservation Equipment is located for the purpose of inspecting the Energy Conservation Equipment.

Section 5.04: Use and Maintenance of the Energy Conservation Equipment. Lessee shall not install, use, operate or maintain the Energy Conservation Equipment (or cause the Energy Conservation Equipment to be installed, used, operated or maintained) improperly, carelessly, in violation of any applicable law or in a manner contrary to that contemplated hereby. Lessee shall provide all permits and licenses, if any, necessary for the installation and operation of the Energy Conservation Equipment. In addition, Lessee agrees to comply in all respects with all applicable laws, regulations and rulings of any legislative, executive, administrative or judicial body; *provided* that Lessee may contest in good faith the validity or application of any such law, regulation or ruling in any reasonable manner that does not, in the opinion of Lessor, adversely affect the interest of Lessor in and to the Energy Conservation Equipment or its interest or rights hereunder.

Lessee agrees that it will maintain, preserve and keep the Energy Conservation Equipment in good repair and working order, in a condition comparable to that recommended by the manufacturer. Lessor shall have no responsibility to maintain, repair or make improvements or additions to the Energy Conservation Equipment. In all cases during the Lease Term and prior to return of Energy Conservation Equipment to Lessor as provided in this Agreement, Lessee agrees to pay any costs necessary for the manufacturer to re-certify the Energy Conservation Equipment as eligible for manufacturer's maintenance upon the return of the Energy Conservation Equipment to Lessor as provided for herein.

Lessee shall not alter any item of Energy Conservation Equipment or install any accessory, equipment or device on an item of Energy Conservation Equipment if that would impair any applicable warranty, the originally intended function or the value of that Energy Conservation Equipment. All repairs, parts, accessories, equipment and devices furnished, affixed to or installed on any Energy Conservation Equipment, excluding temporary replacements, shall thereupon become subject to the security interest of Lessor.

ARTICLE VI

Section 6.01. Title to the Energy Conservation Equipment. During the Lease Term, and so long as Lessee is not in default under Article XII hereof, all right, title and interest in and to each item of the Equipment shall be vested in Lessee immediately upon its acceptance of each item of Equipment, subject to the terms and conditions of this Agreement. Lessee shall at all times protect and defend, at its own cost and expense, its title in and to the Equipment from and against all claims, liens and legal processes of its creditors, and keep all Equipment free and clear of all such claims, liens and processes. Upon payment of all amounts due and owing under this Agreement in accordance with Section 10.01 (including upon payment of all Rental Payments and other amounts payable under this Agreement), Lessor shall release its security interest in and to the Equipment under the Agreement, as is and where is, without warranty of any kind other than as to the absence of liens created by or through Lessor, and shall execute and deliver to Lessee such documents as Lessee may reasonably request to evidence the release of Lessor's security interest in the Equipment subject to this Agreement.

Section 6.02. Security Interest. As additional security for the payment and performance of all of Lessee's obligations hereunder, Lessee hereby grants to Lessor a first priority security interest constituting a first lien on (a) the Energy Conservation Equipment, (b) moneys and investments held from time to time in the Acquisition Fund and the Delivery Costs Fund and (c) any and all proceeds of any of the foregoing. Lessee authorizes Lessor to file (and Lessee agrees to execute, if applicable) such notices of assignment, chattel mortgages, financing statements and other documents, in form satisfactory to Lessor, which Lessor deems necessary or appropriate, to establish and maintain Lessor's security interest in the Energy Conservation Equipment, the Acquisition Fund, the Delivery Costs Fund and the proceeds thereof, including such financing statements with respect to personal property and fixtures under Article 9 of the California Commercial Code and treating such Article 9 as applicable to entities such as Lessee.

Section 6.03. Personal Property, No Encumbrances. Lessee agrees that, as and to the extent permitted by law, the Energy Conservation Equipment is deemed to be and will remain personal property, and will not be deemed to be affixed to or a part of the real estate on which it may be situated, notwithstanding that the Energy Conservation Equipment or any part thereof may be or hereafter become in any manner physically affixed or attached to real estate or any building thereon. Lessee shall not create, incur, assume or permit to exist any mortgage, pledge, lien, security interest, charge or other encumbrance of any nature whatsoever on any of the real estate where the Energy Conservation Equipment is or will be located or enter into any agreement to sell or assign or enter into any sale/leaseback arrangement of such real estate without the prior written consent of Lessor; *provided*, that if Lessor or its assigns is furnished with a waiver of interest in the Energy Conservation Equipment acceptable to Lessor or its assigns in its discretion from any party taking an interest in any such real estate prior to such interest taking effect, such consent shall not be unreasonably withheld.

ARTICLE VII

Section 7.01. Liens, Taxes, Other Governmental Charges and Utility Charges. Lessee shall keep the Energy Conservation Equipment free of all levies, liens, and encumbrances except

those created by this Agreement. The parties to this Agreement contemplate that the Energy Conservation Equipment will be used for a governmental or proprietary purpose of Lessee and that the Energy Conservation Equipment will therefore be exempt from all property taxes. If the use, possession or acquisition of any Energy Conservation Equipment is nevertheless determined to be subject to taxation, Lessee shall pay when due all taxes and governmental charges lawfully assessed or levied against or with respect to such Equipment. Lessee shall pay all utility and other charges incurred in the use and maintenance of the Energy Conservation Equipment. Lessee shall pay such taxes or charges as the same may become due; *provided* that, with respect to any such taxes or charges that may lawfully be paid in installments over a period of years, Lessee shall be obligated to pay only such installments as accrue during the Lease Term. During the Lease Term, Lessor will not claim ownership of the Energy Conservation Equipment for the purposes of any tax credits, benefits or deductions with respect to the Energy Conservation Equipment.

Section 7.02. Insurance. Lessee shall during the Lease Term maintain or cause to be maintained (a) casualty insurance naming Lessor and its assigns as loss payee and additional insured and insuring the Energy Conservation Equipment against loss or damage by fire and all other risks covered by the standard extended coverage endorsement then in use in the State, and any other risks reasonably required by Lessor, in an amount at least equal to the greater of (i) the then applicable Prepayment Price of the Energy Conservation Equipment or (ii) the replacement cost of the Energy Conservation Equipment; (b) liability insurance naming Lessor and its assigns as additional insured that protects Lessor from liability with limits of at least \$1,000,000 per occurrence/\$3,000,000 in the aggregate for bodily injury and property damage coverage, and excess liability umbrella coverage of at least \$5,000,000, and in all events in form and amount satisfactory to Lessor; (c) worker's compensation coverage as required by the laws of the State and (d) rental interruption insurance naming Lessor as loss payee, with coverage equal to the maximum total Rental Payments payable by Lessee under the Lease for any consecutive 24-month period and insuring against abatement of Rental Payments payable by Lessee resulting from Lessee's loss of beneficial use or enjoyment of the Energy Conservation Equipment or any substantial portion thereof and caused by any and all perils insured under the casualty insurance described in clause (a) above; *provided* that, with Lessor's prior written consent, Lessee may self-insure against the risks described in clauses (a), (b) and/or (c). In the event Lessee is permitted, at Lessor's sole discretion, to self-insure as provided in this Section, Lessee shall provide to Lessor a self-insurance letter in substantially the form attached hereto as Exhibit F. Lessee shall furnish to Lessor evidence of such insurance or self-insurance coverage throughout the Lease Term. Lessee shall not cancel or modify such insurance or self-insurance coverage in any way that would affect the interests of Lessor without first giving written notice thereof to Lessor at least 30 days in advance of such cancellation or modification.

Section 7.03. Risk of Loss. Whether or not covered by insurance or self-insurance, Lessee hereby assumes all risk of loss of, or damage to and liability related to injury or damage to any persons or property arising from the Energy Conservation Equipment from any cause whatsoever, and no such loss of or damage to or liability arising from the Energy Conservation Equipment shall relieve Lessee of the obligation to make the Rental Payments or to perform any other obligation under this Agreement, except as otherwise provided in Section 3.03. Whether or not covered by insurance or self-insurance, Lessee hereby agrees to reimburse Lessor (to the

fullest extent permitted by applicable law) and subject to appropriation of moneys sufficient for any and all liabilities, obligations, losses, costs, claims, taxes or damages suffered or incurred by Lessor, regardless of the cause thereof and all expenses incurred in connection therewith (including, without limitation, reasonable counsel fees and expenses, and penalties connected therewith imposed on interest received) arising out of or as a result of (a) entering into of this Agreement or any of the transactions contemplated hereby, (b) the ordering, acquisition, ownership use, operation, condition, purchase, delivery, acceptance, rejection, storage or return of any item of the Energy Conservation Equipment, (c) any accident in connection with the operation, use, condition, possession, storage or return of any item of the Energy Conservation Equipment resulting in damage to property or injury to or death to any person, and/or (d) the breach of any covenant of Lessee under or in connection with this Agreement or any material misrepresentation provided by Lessee under or in connection with this Agreement; *provided, however,* that any amount payable by Lessee pursuant to this Section 7.03 shall be payable solely from moneys appropriated for such purpose by Lessee's Board of Supervisors in its discretion, and failure to appropriate such moneys shall not constitute an Event of Default under this Agreement. The provisions of this paragraph shall continue in full force and effect notwithstanding the full payment of all obligations under this Agreement or the termination of the Lease Term for any reason.

Section 7.04. Surety Bonds; Lessee to Pursue Remedies Against Contractors and Sub-Contractors and Their Sureties. Lessee shall secure from each Vendor directly employed by Lessee in connection with the acquisition, construction, installation, improvement or equipping of the Energy Conservation Equipment, a payment and performance bond ("*Surety Bond*") executed by a surety company authorized to do business in the State, having a financial strength rating by A.M. Best Company of "A-" or better, and otherwise satisfactory to Lessor and naming Lessor as a co-obligee in a sum equal to the entire amount to become payable under each Vendor Agreement. Each bond shall be conditioned on the completion of the work in accordance with the plans and specifications for the Energy Conservation Equipment and upon payment of all claims of subcontractors and suppliers. Lessee shall cause the surety company to add Lessor as a co-obligee on each Surety Bond, and shall deliver a certified copy of each Surety Bond to Lessor promptly upon receipt thereof by Lessee. Any proceeds from a Surety Bond shall be applied first to amounts due Lessor under this Agreement, and any remaining amounts shall be payable to Lessee.

In the event of a material default of any Vendor under any Vendor Agreement in connection with the acquisition, construction, maintenance and/or servicing of the Energy Conservation Equipment or in the event of a material breach of warranty with respect to any material workmanship or performance guaranty with respect to the Energy Conservation Equipment, Lessee will promptly proceed to exhaust its remedies against the Vendor in default. Lessee shall advise Lessor of the steps it intends to take in connection with any such default. Any amounts received by Lessee with respect to damages, refunds and adjustments or otherwise in connection with the foregoing shall be paid to Lessor and applied against Lessee's obligations hereunder.

Section 7.05. Advances. In the event Lessee shall fail to keep the Energy Conservation Equipment in good repair and working order or shall fail to maintain any insurance required by

Section 7.02 hereof, Lessor may, but shall be under no obligation to, maintain and repair the Energy Conservation Equipment or obtain and maintain any such insurance coverages, as the case may be, and pay the cost thereof. All amounts so advanced by Lessor shall constitute additional rent for the Lease Term, and Lessee covenants and agrees to pay such amounts so advanced by Lessor with interest thereon from the date advanced until paid at a rate equal to the Contract Rate plus 5% per annum or the maximum amount permitted by law, whichever is less; *provided, however*, that any amount payable by Lessee pursuant to this Section 7.05 shall be payable solely from moneys appropriated for such purpose by Lessee's Board of Supervisors in its discretion, and failure to appropriate such moneys shall not constitute an Event of Default under this Agreement.

ARTICLE VIII

Section 8.01. Damage, Destruction and Condemnation. If, prior to the termination of the Lease Term, (a) the Energy Conservation Equipment or any portion thereof is destroyed, in whole or in part, or is damaged by fire or other casualty or (b) title to, or the temporary use of, the Energy Conservation Equipment or any part thereof shall be taken under the exercise or threat of the power of eminent domain by any governmental body or by any person, firm or corporation acting pursuant to governmental authority, (i) Lessee and Lessor will cause the Net Proceeds of any insurance claim or condemnation award or sale under threat of condemnation to be applied to the prompt replacement, repair, restoration, modification or improvement of the Energy Conservation Equipment or such part thereof and any balance of the Net Proceeds remaining after such work has been completed shall be paid to Lessee or (ii) Lessee shall exercise its option to prepay in accordance with Section 10.01(b).

If Lessee elects to replace any item of the Energy Conservation Equipment (the "*Replaced Equipment*") pursuant to this Section, the replacement equipment (the "*Replacement Equipment*") shall be new or of a quality, type, utility and condition at least as good as the Replaced Equipment, shall be of equal or greater value than the Replaced Equipment and shall provide at least the same level of energy and/or operational savings expected in the aggregate from the Replaced Equipment prior to such casualty, destruction or condemnation. Lessee shall grant to Lessor a first priority security interest in any such Replacement Equipment. Lessee shall represent, warrant and covenant to Lessor that each item of Replacement Equipment is free and clear of all claims, liens, security interests and encumbrances, excepting only those liens created by or through Lessor, and shall provide to Lessor any and all documents as Lessor may reasonably request in connection with the replacement, including, but not limited to, documentation in form and substance satisfactory to Lessor evidencing Lessor's security interest in the Replacement Equipment. Lessor and Lessee hereby acknowledge and agree that any Replacement Equipment acquired pursuant to this paragraph shall constitute "Energy Conservation Equipment" for purposes of this Agreement. Lessee shall complete the documentation of Replacement Equipment on or before the next Rental Payment Date after the occurrence of a casualty event, or exercise its option to prepay in accordance with Section 10.01(b).

For purposes of this Article, the term "*Net Proceeds*" shall mean the amount remaining from the gross proceeds of any insurance claim or condemnation award or sale under threat of

condemnation after deducting all expenses, including attorneys' fees, incurred in the collection thereof.

Section 8.02. Insufficiency of Net Proceeds. If the Net Proceeds are insufficient to pay in full the cost of any repair, restoration, modification or improvement referred to in Section 8.01, Lessee shall either (a) complete such replacement, repair, restoration, modification or improvement and pay any costs thereof in excess of the amount of the Net Proceeds (to the fullest extent permitted by applicable law, but only from legally available funds), or (b) pay or cause to be paid to Lessor the amount of the then applicable Prepayment Price for the Energy Conservation Equipment, and, upon such payment, the Lease Term shall terminate and Lessor's security interest in the Energy Conservation Equipment shall terminate as provided in Section 6.01 hereof; *provided, however*, that any amount payable by Lessee pursuant to this Section 8.02 shall be payable solely from moneys appropriated for such purpose by Lessee's Board of Supervisors in its discretion, and failure to appropriate such moneys shall not constitute an Event of Default under this Agreement. The amount of the Net Proceeds, if any, remaining after completing such repair, restoration, modification or improvement or after purchasing such Equipment shall be retained by Lessee. If Lessee shall make any payments pursuant to this Section, Lessee shall not be entitled to any reimbursement therefor from Lessor nor shall Lessee be entitled to any diminution of the amounts payable under Article IV.

ARTICLE IX

Section 9.01. Disclaimer of Warranties. Lessor makes no warranty or representation, either express or implied, as to the value, design, condition, merchantability or fitness for particular purpose or fitness for use of the Energy Conservation Equipment, or any other warranty or representation, express or implied, with respect thereto and, as to Lessor, Lessee's acquisition of the Energy Conservation Equipment shall be on an "as is" basis. In no event shall Lessor be liable for any incidental, indirect, special or consequential damage in connection with or arising out of this Agreement, the Energy Conservation Equipment or the existence, furnishing, functioning or Lessee's use of any item, product or service provided for in this Agreement.

Section 9.02. Vendor's Agreements; Warranties. Lessee covenants that it shall not in any material respect amend, modify, rescind or alter any Vendor Agreement without the prior written consent of Lessor. Lessor hereby irrevocably appoints Lessee its agent and attorney-in-fact during the Lease Term, so long as Lessee shall not be in default under this Agreement, to assert from time to time whatever claims and rights (including without limitation warranties) relating to the Energy Conservation Equipment that Lessor may have against Vendor. Lessee's sole remedy for the breach of such warranty, indemnification or representation shall be against the applicable Vendors of the Energy Conservation Equipment, and not against Lessor. Any such matter shall not have any effect whatsoever on the rights and obligations of Lessor hereunder, including the right to receive full and timely Rental Payments. Lessee expressly acknowledges that Lessor makes, and has made, no representations or warranties whatsoever as to the existence or the availability of such warranties relating to the Equipment.

ARTICLE X

Section 10.01. Prepayment Option. Lessee shall have the option to prepay or satisfy all (or in the case of subsection (b) below, all or part) of its obligations hereunder, at the following times and upon the following terms:

(a) From and after the date specified (if any) in the Payment Schedule (the "*Prepayment Option Commencement Date*"), on the Rental Payment Dates specified in the Payment Schedule, upon not less than 30 days' prior written notice, and upon payment in full of the Rental Payments then due and all other amounts then owing under this Agreement plus the then applicable Prepayment Price, which may include a prepayment premium on the unpaid balance as set forth in the Payment Schedule; or

(b) In the event that Energy Conservation Equipment is destroyed or damaged to such an extent that there is substantial interference with the use and right of possession by Lessee of that item which would result in an abatement of Rental Payments or any thereof pursuant to Section 3.03, on the day specified in Lessee's notice to Lessor of its exercise of the prepayment option (which shall be the earlier of the next Rental Payment Date or 60 days after the casualty event) upon payment in full to Lessor of the sum of (i) any Rental Payment then due (calculated in accordance with Sections 3.03 and 4.01 hereof) plus (ii) an amount equal to the lesser of the then applicable Prepayment Price or [103]% of the aggregate unpaid principal portion of Rental Payments to be prepaid (or, in the event such prepayment occurs on a date other than a Rental Payment Date, the sum of such amount determined as of the next preceding Rental Payment Date plus accrued interest to such prepayment date) plus (iii) all other amounts then owing hereunder; or

(c) Upon the expiration of the Lease Term, upon payment in full of all Rental Payments then due and all other amounts then owing hereunder to Lessor; or

(d) In the event that a Loss of Subsidy (as hereafter defined) occurs, on the day specified in Lessee's notice to Lessor of its exercise of the prepayment option provided under this subsection (d), Lessee shall have the option to prepay all, but not less than all, of the Rental Payments from and after any Loss of Subsidy upon payment in full to Lessor of the sum of (i) any Rental Payment then due plus (ii) an amount equal to the lesser of the then applicable Prepayment Price or [103]% of the aggregate unpaid principal portion of Rental Payments (or, in the event such prepayment occurs on a date other than a Rental Payment Date, the sum of such lesser amount determined as of the next preceding Rental Payment Date plus accrued interest to such prepayment date) plus (iii) all other amounts then owing hereunder. "*Loss of Subsidy*" means the occurrence of any of the following: (A) legislation enacted by the Congress of the United States of America or a ruling, regulation or statement issued by the Treasury Department or the Internal Revenue Service, the effect of which (I) denies, repeals, revokes or reduces Lessee's applicable cash subsidy payments from the United States Treasury under Section 54A or 6431 of the Code (as currently in effect) with respect to this Agreement (herein referred to as "*Direct Subsidy Payments*") or (II) imposes one or more new substantive conditions on the receipt by Lessee of Direct Subsidy Payments and such

conditions are unacceptable to Lessee; and (B) any governmental, administrative, judicial or other official action that is beyond Lessee's control and results in the significant reduction or loss of Direct Subsidy Payments to Lessee or imposes one or more new substantive conditions on the receipt by Lessee of Direct Subsidy Payments and such conditions are unacceptable to Lessee; *provided, however*, that in no event shall a "*Loss of Subsidy*" occur as the result of Lessee's failure or inability for reasons within its control to receive (or delay in receipt of) all or any portion of any Direct Subsidy Payment from the United States Department of Treasury or Lessee's failure to comply with applicable law and regulations to obtain payment of any Direct Subsidy Payment from the United States Department of Treasury, including (without limitation) any offset against any Direct Subsidy Payment as a result of other liabilities of Lessee to the United States Department of Treasury.

After payment of the applicable Prepayment Price and all other amounts owing hereunder, Lessor's security interests in and to such Energy Conservation Equipment will be terminated and Lessee will own the Energy Conservation Equipment free and clear of Lessor's security interest in the Energy Conservation Equipment.

ARTICLE XI

Section 11.01. Assignment by Lessor. (a) Lessor's right, title and interest in and to this Agreement, the Rental Payments and any other amounts payable by Lessee hereunder, the Acquisition Fund Agreement, its security interest in the Energy Conservation Equipment, the Acquisition Fund and the Delivery Costs Fund, and all proceeds therefrom may be assigned and reassigned in whole or in part to one or more assignees or subassignees by Lessor, without the necessity of obtaining the consent of Lessee; *provided*, that any such assignment, transfer or conveyance (i) shall be made only to investors each of whom Lessor reasonably believes is a "*qualified institutional buyer*" as defined in Rule 144A(a)(1) promulgated under the Securities Act of 1933, as amended, and is purchasing the Agreement (or any interest therein) for its own account with no present intention to resell or distribute the Agreement (or interest therein), subject to each investor's right at any time to dispose of the Agreement or any interest therein as it determines to be in its best interests, (ii) shall not result in more than 35 owners of Lessor's rights and interests under this Agreement or the creation of any interest in this Agreement in an aggregate principal component that is less than \$100,000, (iii) shall not require Lessee to make Rental Payments, send notices or otherwise deal with respect to matters arising under this Agreement with or to more than one individual or entity and (iv) shall not require Lessee to participate in, or provide information with respect to, any private offering memorandum or other disclosure document and Lessee shall have no disclosure or continuing disclosure obligation with respect to any such assignment, transfer or conveyance. Any trust agreement, participation agreement or custodial agreement under which multiple ownership interests in this Agreement are created shall provide the method by which the owners of such interests shall establish the rights and duties of a single trustee, owner, servicer or other fiduciary or agent to act on their behalf with respect to the rights and interests of Lessor under this Agreement, including with respect to the exercise of rights and remedies by Lessor on behalf of such owners upon the occurrence of an Event of Default hereunder. Lessor and Lessee hereby acknowledge and agree that the restrictions and limitations on transfer as provided in this Section 11.01 shall apply to the

first and subsequent assignees and sub-assignees of any of Lessor's right, title and interest in, to and under this Agreement (or any interest therein).

(b) Unless to an affiliate controlling, controlled by or under common control with Lessor, no assignment, transfer or conveyance permitted by this Section 11.01 shall be effective until Lessee shall have received a written notice of assignment that discloses the name and address of each such assignee; *provided*, that if such assignment is made to a bank or trust company as trustee or paying agent for owners of certificates of participation, trust certificates or partnership interests with respect to the Rental Payments payable under this Agreement, it shall thereafter be sufficient that Lessee receives notice of the name and address of the bank or trust company as trustee or paying agent. During the Lease Term, Lessee shall keep, or cause to be kept, a complete and accurate record of all such assignments in form necessary to comply with Section 149 of the Code. Lessee shall retain all such notices as a register of all assignees and shall make all payments to the assignee or assignees designated in such register. Lessee shall not have the right to and shall not assert against any assignee any claim, counterclaim or other right Lessee may have against Lessor or the Vendor. Assignments in part may include without limitation assignment of all of Lessor's security interest in and to the Energy Conservation Equipment and all rights in, to and under this Agreement related to such Equipment, and all of Lessor's security interest in and to the Acquisition Fund and the Delivery Costs Fund, or all rights in, to and under the Acquisition Fund Agreement.

(c) If Lessor notifies Lessee of its intent to assign this Agreement, Lessee agrees that it shall execute and deliver to Lessor a Notice and Acknowledgement of Assignment substantially in the form of Exhibit G attached hereto within ten (10) business days after its receipt of such request.

Section 11.02. Assignment and Subleasing by Lessee. None of Lessee's right, title, and interest in, to and under this Agreement or any portion of the Energy Conservation Equipment or the Acquisition Fund Agreement, the Acquisition Fund or the Delivery Costs Fund may be assigned, encumbered or subleased by Lessee for any reason, and any purported assignment, encumbrance or sublease without Lessor's prior written consent shall be null and void.

ARTICLE XII

Section 12.01. Events of Default Defined. Any of the following events shall constitute an "Event of Default" under this Agreement:

(a) Failure by Lessee to (i) pay any Rental Payment or other payment required to be paid under this Agreement within 10 days after the date when due as specified herein or (ii) maintain insurance as required herein;

(b) Failure by Lessee to observe and perform any covenant, condition or agreement contained in this Agreement on its part to be observed or performed, other than as referred to in subparagraph (a) above and other than a failure by Lessee to perform any covenant contained in Section 4.05 hereof that does not materially adversely

affect Lessor and its interests, for a period of 30 days after written notice specifying such failure and requesting that it be remedied is given to Lessee by Lessor, unless Lessor shall agree in writing to an extension of such time prior to its expiration; *provided* that, if the failure stated in the notice cannot be corrected within the applicable period, Lessor will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by Lessee within the applicable period and diligently pursued until the default is corrected;

(c) Any statement, representation or warranty made by Lessee in or pursuant to this Agreement or its execution, delivery or performance shall prove to have been false, incorrect, misleading, or breached in any material respect on the date when made;

[(d) Any default occurs under any other agreement for borrowing money, lease financing of property or otherwise receiving credit under which Lessee is an obligor, if such default arises under any other agreement for borrowing money, lease financing of property or provision of credit provided by Lessor or any affiliate of Lessor;]

[(e)] Lessee shall (i) apply for or consent to the appointment of a receiver, trustee, custodian or liquidator of Lessee, or of all or a substantial part of the assets of Lessee, (ii) be unable, fail or admit in writing its inability generally to pay its debts as they become due, (iii) make a general assignment for the benefit of creditors or (iv) file a voluntary petition in bankruptcy or a petition or an answer seeking reorganization or an arrangement with creditors or taking advantage of any insolvency law or any answer admitting the material allegations of a petition filed against Lessee in any bankruptcy, reorganization, moratorium or insolvency proceeding; or

[(f)] An order, judgment or decree shall be entered by any court of competent jurisdiction, approving a petition or appointing a receiver, trustee, custodian or liquidator for the Lessee or of all or a substantial part of the assets of Lessee, in each case without its application, approval or consent, and such order, judgment or decree shall continue unstayed and in effect for any period of 30 consecutive days.

Failure on the part of Lessee to make any payment, transfer or disbursement provided for in this Agreement or in the Acquisition Fund Agreement to be paid from moneys in Lessee's general fund that are legally available and duly appropriated by Lessee's Board of Supervisors at its discretion and not at its obligation shall not be a default or Event of Default under this Agreement or the Acquisition Fund Agreement and no remedy is provided for any such failure.

Section 12.02. Remedies on Default. Whenever any Event of Default exists, Lessor shall have the right, at its sole option without any further demand or notice, to take one or any combination of the following remedial steps:

(a) By written notice to Lessee, Lessor may without terminating this Agreement, take whatever action at law or in equity may appear necessary or desirable to collect each Rental Payment payable by Lessee and other amounts payable by Lessee hereunder as they become due and payable;

(b) With or without terminating the Lease Term, Lessor may enter the premises where the Energy Conservation Equipment is located and retake possession of such Equipment or require Lessee at Lessee's expense to promptly return any or all of such Equipment to the possession of Lessor at such place within the United States as Lessor shall specify, and sell or lease such Equipment or, for the account of Lessee, sublease such Equipment, continuing to hold Lessee liable, but solely from legally available funds, for the difference between (i) the Rental Payments payable by Lessee and other amounts hereunder or the Energy Conservation Equipment that are payable by Lessee to the end of the Lease Term, and (ii) the net proceeds of any such sale, leasing or subleasing (after deducting all reasonable expenses of Lessor in exercising its remedies hereunder, including without limitation all expenses of taking possession, storing, reconditioning and selling or leasing such Equipment and all brokerage, auctioneer's and attorney's fees), subject, however, to the provisions of Section 3.03; *provided*, that in no event shall Lessee be liable in any fiscal year for any amount in excess of the Rental Payments shown for such year in the Payment Schedule. The exercise of any such remedies respecting any such Event of Default shall not relieve Lessee of any other liabilities hereunder or the Energy Conservation Equipment;

(c) Lessor may terminate the Acquisition Fund Agreement and apply any proceeds in the Acquisition Fund and the Delivery Costs Fund to the Rental Payments due hereunder;

(d) Lessor may take whatever action at law or in equity may appear necessary or desirable to enforce its rights under this Agreement or the Acquisition Fund Agreement or as a secured party in any or all of the Energy Conservation Equipment or the Acquisition Fund or the Delivery Costs Fund;

(e) By action pursuant to the California Code of Civil Procedure, or as otherwise provided by law, obtain the issuance of a writ of mandamus enforcing, for each fiscal year *seriatim* during the entire balance of the remaining Lease Term, subject to Section 3.03, the duty of Lessee to appropriate and take all other administrative steps necessary for the payment of Rental Payments and other amounts due hereunder; and

(f) Without terminating this Agreement and only while the Event of Default is continuing, charge the Default Rate under this Agreement and the Rental Payments for such period shall be recomputed based on such Default Rate.

Section 12.03. No Remedy Exclusive; No Acceleration. No remedy herein conferred upon or reserved to Lessor is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder now or hereafter existing at law or in equity; *provided* that Lessor shall have no right to accelerate any Rental Payment or otherwise declare any Rental Payment or other amount payable not then in default to be immediately due and payable. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient. In

order to entitle Lessor to exercise any remedy reserved to it in this Article it shall not be necessary to give any notice other than such notice as may be required in this Article.

ARTICLE XIII

Section 13.01. Notices. All notices, certificates or other communications under this Agreement shall be sufficiently given and shall be deemed given when delivered or mailed by registered mail, postage prepaid, or delivered by overnight courier, or sent by facsimile transmission (with electronic confirmation) to the parties hereto at the addresses immediately after the signatures to this Agreement (or at such other address as either party hereto shall designate in writing to the other for notices to such party) and to any assignee at its address as it appears on the registration books maintained by Lessee.

Section 13.02. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon Lessor and Lessee and their respective successors and assigns.

Section 13.03. Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 13.04. Amendments, Changes and Modifications. This Agreement may only be amended by Lessor and Lessee in writing, *provided, however*, that Lessee may modify or amend any of its covenants set forth in Section 4.05 in such manner as Lessee shall determine without prior notice to, or consent or approval of, Lessor.

Section 13.05. Execution in Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 13.06. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State.

Section 13.07. Captions. The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

[Remainder of Page Intentionally Left Blank]

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Lessor and Lessee have caused this Agreement to be executed in their names by their duly authorized representatives as of the date first above written.

LESSOR:

Banc of America Leasing & Capital, LLC
11333 McCormick Road
Hunt Valley II
M/C MD5-032-07-05
Hunt Valley, MD 21031
Attention: Contract Administration
Fax No.: (443) 556-6977

LESSEE:

County of Los Angeles
Treasurer and Tax Collector
Kenneth Hahn Hall of Administration
500 West Temple Street, Room 437
Los Angeles, California 90012
Attention: Douglas Baron
Fax No.: (213) 625-2249

By: _____

Name: _____

Title: _____

By: _____

Name: Mark J. Saladino

Title: Treasurer and Tax Collector

Counterpart No. _____ of _____ manually executed and serially numbered counterparts.
To the extent that this Agreement constitutes chattel paper (as defined in the Uniform Commercial Code), no security interest herein may be created through the transfer or possession of any Counterpart other than Counterpart No. 1.

LIST OF EXHIBITS

Exhibit A	—	Equipment Schedule
Exhibit B	—	Rental Payments Schedule
Exhibit C	—	Form of Authorizing Resolution
Exhibit D	—	Form of Opinion of Counsel Form
Exhibit E	—	Form of Final Acceptance Certificate
Exhibit F	—	Form of Self-Insurance Certificate
Exhibit G	—	Form of Notice and Acknowledgement of Assignment
Exhibit H	—	Form of Acquisition Fund and Account Control Agreement

EXHIBIT A

EQUIPMENT SCHEDULE

Location of Energy Conservation Equipment:

[to be provided]

Energy Conservation Equipment Description (Scope of Work):

[to be provided]

EXHIBIT B

RENTAL PAYMENTS SCHEDULE

RENTAL PAYMENT DATE	RENTAL PAYMENT AMOUNT	INTEREST PORTION	PRINCIPAL PORTION	OUTSTANDING BALANCE	PREPAYMENT PRICE (including prepayment premium, if applicable)

Contract Rate. The Contract Rate is _____% per annum.

Prepayment Option Commencement Date. For purposes of Section 10.01 of the Agreement, the Prepayment Option Commencement Date is _____, 20__.

EXHIBIT C

FORM OF INCUMBENCY AND AUTHORIZATION CERTIFICATE

The undersigned, the duly elected or appointed and acting Executive Officer-Clerk of the Board of Supervisors of the County of Los Angeles, California, certifies on behalf of the County of Los Angeles, California (the "*Lessee*") as follows:

A. The following listed persons are duly elected or appointed and acting officers of the Lessee (the "*Authorized Officers*") in the capacity set forth opposite their respective names below and that the facsimile signatures are true and correct as of the date hereof.

B. The Authorized Officers are duly authorized, on behalf of the Lessee, to negotiate, execute and deliver that certain purchase offer letter from Banc of America Leasing & Capital, LLC (in such capacity, the "*Purchaser*") dated August __, 2011, the Taxable QECB Equipment Lease/Purchase Agreement (Direct Subsidy) to be dated as of its date of its execution and delivery, between the Lessee and Banc of America Leasing & Capital, LLC (in such capacity, "*Lessor*"), the Acquisition Fund and Account Control Agreement to be dated as of the date of its execution and delivery, among the Lessor, the Lessee and Deutsche Bank National Trust Company, as Acquisition Fund Custodian, and all documents related thereto and delivered in connection therewith (collectively, the "*Agreements*"), and the Agreements are each the binding and authorized agreements of the Lessee, enforceable in all respects in accordance with their respective terms.

NAME OF AUTHORIZED OFFICER	TITLE	SIGNATURE
_____	_____	_____
_____	_____	_____

C. All financial statements and other information delivered to the Purchaser are correct and complete. From August __, 2011 to the date hereof, there has not occurred a downgrade of two or more sub-grades on any of Lessee's publicly available long-term general obligation bond ratings or any of Lessee's other long-term general fund related bond ratings by either Moody's Investors Service, Inc. or Standard & Poor's Ratings Group.

Dated: _____

By: _____

Name: _____

Title: _____

(The signer of this Certificate cannot be listed above as authorized to execute the Agreements.)

EXHIBIT D

FORM OF OPINION OF COUNSEL TO LESSEE
(to be typed on letterhead of counsel)

_____, 2011

Banc of America Leasing & Capital, LLC
11333 McCormick Road
Mail Code: MD5-032-07-05
Hunt Valley, MD 21031
Attn: Contract Administration

Re: Taxable QECB Equipment Lease/Purchase Agreement (Direct Subsidy)
dated as of _____, 2011, between
Banc of America Leasing & Capital, LLC, as Lessor, and
County of Los Angeles, California, as Lessee

Ladies and Gentlemen:

As legal counsel to the County of Los Angeles, California ("*Lessee*"), we have examined (a) an executed counterpart of that certain offer letter dated August __, 2011 from Banc of America Leasing & Capital, LLC and accepted by Lessee on August __, 2011 (the "*Purchase Contract*"), (b) an executed counterpart of that certain Taxable QECB Equipment Lease/Purchase Agreement (Direct Subsidy), dated as of _____, 2011 (the "*Agreement*"), and Exhibits thereto, between Banc of America Leasing & Capital, LLC ("*Lessor*") and Lessee, which, among other things, provides for the lease of certain property (the "*Energy Conservation Equipment*"), (c) an executed counterpart of that certain Acquisition Fund and Account Control Agreement dated as of _____, 2011 (the "*Acquisition Fund Agreement*") among Lessor, Lessee, and Deutsche Bank National Trust Company, as Acquisition Fund Custodian, (d) a certified copy of the resolutions of Lessee with respect to the transaction contemplated by the Purchase Contract, the Agreement, the Acquisition Fund Agreement and documents related thereto and (e) such other opinions, documents and matters of law as we have deemed necessary in connection with the following opinions. The Purchase Contract, the Agreement, the Acquisition Fund Agreement and the documents relating thereto are referred to collectively as the "Transaction Documents."

Based on the foregoing, we are of the following opinions:

1. Lessee is a political subdivision of the State of California.

2. Lessee has the requisite power and authority to lease and acquire the Energy Conservation Equipment and to execute and deliver the Transaction Documents and to perform its obligations under the Transaction Documents.

3. The Transaction Documents have been duly authorized, approved, executed and delivered by and on behalf of Lessee and the Transaction Documents are legal, valid and binding obligations of Lessee enforceable in accordance with their respective terms.

4. The Purchase Contract created on its date of acceptance, execution and delivery by Lessee a binding, written contract under applicable California law (assuming due authorization, execution and delivery thereof by Banc of America Leasing & Capital, LLC).

5. The authorization, approval, execution and delivery of the Transaction Documents and all other proceedings of Lessee relating to the transactions contemplated thereby have been performed in accordance with all open meeting laws, public bidding laws and all other applicable state or federal laws.

6. There is no proceeding pending or, to the best of our knowledge, threatened in any court or before any governmental authority or arbitration board or tribunal that, if adversely determined, would adversely affect the transactions contemplated by the Transaction Documents or the security interest of Lessor or its assigns, as the case may be, in the Energy Conservation Equipment, the Acquisition Fund, the Delivery Costs Fund or other collateral thereunder.

Notwithstanding anything stated to the contrary herein:

1. We expressly decline to render any opinion regarding the taxability or tax effect (under both state and federal law) of the transactions which are the subject of this opinion letter.

2. This opinion is based on the existing laws of the State of California as of this date and we expressly decline to render any opinion as to any laws or regulations of other state or jurisdictions (including federal law and regulations) as they may pertain to the transactions that are the subject of this opinion letter, the Transaction Documents or the effect of noncompliance under any such laws or regulations of any other jurisdictions.

3. This opinion is furnished for you and is solely for your benefit and the benefit of your successors and assigns. Other than you and your successors and assigns, it may not be relied upon by any other person or entity however organized. No attorney-client relationship is created by the rendering of this opinion.

4. This opinion may be used only in connection with the transactions contemplated under the Transaction Documents.

5. This opinion is given as of this date, and we expressly decline any undertaking to advise you of any matters arising subsequent to the date hereof which would cause us to amend any portion of the foregoing in whole or in part.

6. The opinions set forth are subject to applicable bankruptcy, insolvency, reorganization, moratorium or similar laws or equitable principles affecting the enforcement of creditors' rights generally. The enforcement of the Transaction Documents is subject to the effect of general principles of equity, including, without limitation, concepts of materiality, reasonableness, good faith and fair dealing, and the possible unavailability of specific performance or injunctive relief, regardless of whether considered in a proceeding in equity or at law, and to the exercise of judicial discretion in appropriate cases and to the limitations on legal remedies against public entities in the State of California and the application of California law relating to conflicts of interest to which public entities are subject. We express no opinion as to the enforceability of any provisions relating to indemnification or forum.

7. Our failure to enumerate any exclusion from our representations set forth above does not in any manner expand our opinion.

All capitalized terms herein shall have the same meanings as in the Transaction Documents unless otherwise provided herein. Lessor and its successors and assigns are entitled to rely on this opinion.

Sincerely,

EXHIBIT E

FORM OF FINAL ACCEPTANCE CERTIFICATE

Banc of America Leasing & Capital, LLC
11333 McCormick Road
Mail Code: MD5-032-07-05
Hunt Valley, MD 21031
Attn: Contract Administration

Re: Taxable QECB Equipment Lease/Purchase Agreement (Direct Subsidy)
between Banc of America Leasing & Capital, LLC, as Lessor, and
County of Los Angeles, California, as Lessee

Ladies and Gentlemen:

In accordance with Section 5.01 of the Taxable QECB Equipment Lease/Purchase Agreement (Direct Subsidy) (the "*Agreement*"), the undersigned Lessee hereby certifies and represents to, and agrees with Lessor as follows:

1. Equipment Acceptance for all of the Energy Conservation Equipment (as such term is defined in the Agreement) has occurred as evidenced by the related Disbursement Requests heretofore or herewith delivered in accordance with the Acquisition Fund Agreement.
2. Lessee has conducted such inspection and/or testing of the Energy Conservation Equipment as it deems necessary and appropriate and hereby acknowledges that it accepts the Energy Conservation Equipment for all purposes.
3. Lessee is currently maintaining the insurance coverage required by Section 7.02 of the Agreement.
4. Lessee hereby reaffirms that the representations, warranties and covenants contained in the Agreement are true and correct as of the date hereof.

5. No event or condition that constitutes, or with notice or lapse of time, or both, would constitute, an Event of Default (as defined in the Agreement) exists at the date hereof.

Date: _____

LESSEE: COUNTY OF LOS ANGELES,
CALIFORNIA

By: _____

Name: _____

Title: _____

EXHIBIT F

FORM OF SELF-INSURANCE CERTIFICATE

Banc of America Leasing & Capital, LLC
11333 McCormick Road
Mail Code: MD5-032-07-05
Hunt Valley, MD 21031
Attn: Contract Administration

Re: Taxable QECB Equipment Lease/Purchase Agreement (Direct Subsidy)
dated as of _____, 2011 (the "Agreement")
between Banc of America Leasing & Capital, LLC, as Lessor,
and County of Los Angeles, California, as Lessee

In connection with the above-referenced Agreement, the County of Los Angeles, California (the "Lessee"), warrants and represents to Banc of America Leasing & Capital, LLC the following information. The terms capitalized herein but not defined herein shall have the meanings assigned to them in the Agreement.

1. The Lessee is self-insured for damage or destruction to the Energy Conservation Equipment. The dollar amount limit for property damage to the Energy Conservation Equipment under such self-insurance program is \$ _____. [The Lessee maintains an umbrella insurance policy for claims in excess of Lessee's self-insurance limits for property damage to the Energy Conservation Equipment which policy has a dollar limit for property damage to the Energy Conservation Equipment under such policy of \$ _____.]

2. The Lessee is self-insured for liability for injury or death of any person or damage or loss of property arising out of or relating to the condition or operation of the Energy Conservation Equipment. The dollar limit for such liability claims under the Lessee's self-insurance program is \$ _____. [The Lessee maintains an umbrella insurance policy for claims in excess of Lessee's self-insurance limits for liability which policy has a dollar limit for liabilities for injury and death to persons as well as damage or loss of property arising out of or relating to the condition or operation of the Energy Conservation Equipment in the amount of \$ _____.]

[3]. The Lessee maintains a self-insurance fund. Monies in the self-insurance fund [are/are not] subject to annual appropriation. The total amount maintained in the self-insurance fund to cover Lessee's self-insurance liabilities is \$ _____. [Amounts paid from the Lessee's self-insurance fund are subject to a dollar per claim of \$ _____.]

[3]. The Lessee does not maintain a self-insurance fund. The Lessee obtains funds to pay claims for which it has self-insured from the following sources: _____

_____. Amounts payable for claims from the such sources are limited as follows:

4. Attached hereto are copies of certificates of insurance with respect to policies maintained by Lessee.

LESSEE:

County of Los Angeles, California

By: _____

Name: _____

Title: _____

EXHIBIT G

FORM OF NOTICE AND ACKNOWLEDGEMENT OF ASSIGNMENT

DATED _____

BANC OF AMERICA LEASING & CAPITAL, LLC ("*Assignor*") hereby gives notice that it has assigned and sold to _____ ("*Assignee*") all of Assignor's right, title and interest in, to and under the Taxable QECB Equipment Lease/Purchase Agreement (Direct Subsidy) dated as of _____, 2011 (the "*Agreement*"), between Assignor and County of Los Angeles, California ("*Lessee*"), together with all exhibits, schedules, addenda and attachments related thereto, and all certifications and other documents delivered in connection therewith, the Rental Payments and other amounts due under the Agreement, all of Assignor's right, title and interest in the Energy Conservation Equipment (as defined in the Agreement), and all of Assignor's right, title and interest in, to and under the Acquisition Fund and Account Control Agreement dated as of _____, 2011 (the "*Acquisition Fund Agreement*") by and among Lessee, Assignor and Deutsche Bank National Trust Company, as Acquisition Fund Custodian, together with the Acquisition Fund and the Delivery Costs Fund related thereto (collectively, the "*Assigned Property*").

1. In accordance with the terms of the Agreement, Lessee hereby acknowledges the effect of the assignment of the Assigned Property and absolutely and unconditionally agrees to deliver to Assignee all Rental Payments and other amounts coming due under the Agreement in accordance with the terms thereof on and after the date of this Acknowledgment.

2. Lessee hereby agrees that: (i) Assignee shall have all the rights of Lessor under the Agreement and all related documents, including, but not limited to, the rights to issue or receive all notices and reports, to give all consents or agreements to modifications thereto, to receive title to the Energy Conservation Equipment in accordance with the terms of the Agreement, to declare a default and to exercise all remedies thereunder; and (ii) except as provided in Sections 3.03 and 4.01(b) of the Agreement, the obligations of Lessee to make Rental Payments and to perform and observe the other covenants and agreements contained in the Agreement shall be absolute and unconditional in all events without abatement, diminution, deduction, set-off or defense.

3. Lessee agrees that, as of the date of this Notice and Acknowledgment of Assignment (this "*Acknowledgement*"), the following information about the Agreement is true, accurate and complete:

Number of Rental Payments Remaining	—	_____
Amount of Each Rental Payment	—	\$ _____
Total Amount of Rents Remaining	—	\$ _____
Frequency of Rental Payments	—	_____
Next Rental Payment Due	—	_____
Funds Remaining in Acquisition Fund and the Delivery Costs Fund	—	\$ _____

4. The Agreement remains in full force and effect, has not been amended and no Event of Default (or event which with the passage of time or the giving of notice or both would constitute a default) has occurred thereunder.

5. Any inquiries of Lessee related to the Agreement and any requests for disbursements from the Acquisition Fund, if applicable, and all Rental Payments and other amounts coming due pursuant to the Agreement on and after the date of this Acknowledgment should be remitted to Assignee at the following address (or such other address as provided to Lessee in writing from time to time by Assignee):

ACKNOWLEDGED AND AGREED:

LESSEE: COUNTY OF LOS ANGELES, CALIFORNIA

By: _____
Name: _____
Title: _____

ASSIGNOR: BANC OF AMERICA LEASING & CAPITAL, LLC

By: _____
Name: _____
Title: _____

EXHIBIT H

FORM OF ACQUISITION FUND AND ACCOUNT CONTROL AGREEMENT

This Acquisition Fund and Account Control Agreement (this "*Agreement*"), dated as of _____, 2011, by and among Banc of America Leasing & Capital, LLC (hereinafter referred to as "*Lessor*"), the County of Los Angeles, California (hereinafter referred to as "*Lessee*") and Deutsche Bank National Trust Company (hereinafter referred to as "*Acquisition Fund Custodian*").

Reference is made to that certain Taxable QECB Equipment Lease/Purchase Agreement (Direct Subsidy) dated as of _____, 2011, between Lessor and Lessee (hereinafter referred to as the "*Lease*"), covering the acquisition, installation and lease of certain Energy Conservation Equipment described therein (the "*Energy Conservation Equipment*"). It is a requirement of the Lease that the Acquisition Amount (\$[14,000,000]) be deposited into an escrow under terms satisfactory to Lessor, for the purpose of fully funding the Lease, and providing a mechanism for the application of such amounts to the acquisition and installation of and payment for the Energy Conservation Equipment and payment of the Delivery Costs.

The parties agree as follows:

1. *Creation of Acquisition Fund and Delivery Costs Fund.*

(a) There is hereby created a special trust fund to be known as the "County of Los Angeles, California, Energy Conservation Equipment Acquisition Fund" (the "*Acquisition Fund*") to be held in trust by Acquisition Fund Custodian for the purposes stated herein, for the benefit of Lessor and Lessee, to be held, disbursed and returned in accordance with the terms hereof.

(b) There is hereby created a special trust fund to be known as the "County of Los Angeles, California, Energy Conservation Equipment Delivery Costs Fund" (the "*Delivery Costs Fund*") to be held in trust by Acquisition Fund Custodian for the purposes stated herein, for the benefit of Lessor and Lessee, to be held, disbursed and returned in accordance with the terms hereof.

(c) Acquisition Fund Custodian shall invest and reinvest moneys on deposit in the Acquisition Fund and the Delivery Costs Fund in Qualified Investments (as hereinafter defined in this subsection) in accordance with written instructions received from Lessee. Lessee shall be solely responsible for ascertaining that all proposed investments and reinvestments are Qualified Investments and that they comply with federal, State and local laws, regulations and ordinances governing investment of such funds and for providing appropriate notice to Acquisition Fund Custodian for the reinvestment of any maturing investment. Accordingly, neither Acquisition Fund Custodian nor Lessor shall be responsible for any liability, cost, expense, loss or claim of any kind, directly or indirectly arising out of or related to the investment or reinvestment of all or any

portion of the moneys on deposit in the Acquisition Fund or the Delivery Costs Fund, and Lessee agrees to and does hereby release Acquisition Fund Custodian and Lessor from any such liability, cost, expenses, loss or claim. Interest on the Acquisition Fund and the Delivery Costs Fund shall become part of the respective Funds, and gains and losses on the investment of the moneys on deposit in the Acquisition Fund and the Delivery Costs Fund shall be borne by the respective Funds. For purposes of this agreement, "Qualified Investments" means any investments which meet the requirements of California Government Code Sections 53600 *et seq.*

(d) Unless the Acquisition Fund is earlier terminated in accordance with the provisions of paragraph (f) below, amounts in the Acquisition Fund shall be disbursed by the Acquisition Fund Custodian in payment of amounts described in Section 2 hereof upon receipt of written authorization(s) from Lessor, as is more fully described in Section 2 hereof. If the amounts in the Acquisition Fund are insufficient to pay such amounts, Lessee shall provide any balance of the funds needed to complete the acquisition and installation of the Energy Conservation Equipment; *provided, however,* that any amount required for such purpose shall be payable solely from moneys appropriated for such purpose by the Board of Supervisors of Lessee in its discretion, and failure to appropriate such moneys shall not constitute an event of default under this Agreement or the Lease. Any moneys remaining in the Acquisition Fund on or after the earlier of (i) the expiration of the Acquisition Period, (ii) the date on which Lessee executes and delivers to Lessor the Final Acceptance Certificate pursuant to Section 5.01(a) of the Agreement or (iii) the 90th day following the later of _____, 2014 or, if Lessee has obtained an extension for the expenditure of amounts in such Fund in accordance with Section 54A(d)(2) of the Code, the close of such extended period, shall be applied as provided in Section 4 hereof in accordance with Section 4.06 of the Lease.

(e) Unless the Delivery Costs Fund is earlier terminated in accordance with the provisions of paragraph (f) below, amounts in the Delivery Costs Fund shall be applied to pay Delivery Costs upon receipt by Acquisition Fund Custodian of written directions from Lessee, which are approved in writing by Lessor, that identifies the payees and the amounts to be paid for Delivery Costs. Upon the earlier of January 1, 2012 or payment of all Delivery Costs, amounts in the Delivery Costs Fund shall be transferred to, and used for the purposes of, the Acquisition Fund.

(f) The Acquisition Fund and the Delivery Costs Fund shall be terminated at the earliest of (i) the final distribution of amounts in the Acquisition Fund and the Delivery Costs Fund or (ii) written notice given by Lessor of the occurrence of a default under the Lease.

(g) The Acquisition Fund Custodian may act in reliance upon any writing or instrument or signature which it, in good faith, believes to be genuine

and may assume the validity and accuracy of any statement or assertion contained in such a writing or instrument. The Acquisition Fund Custodian shall not be liable in any manner for the sufficiency or correctness as to form, manner of execution, or validity of any instrument nor as to the identity, authority, or right of any person executing the same; and its duties hereunder shall be limited to the receipt of such moneys, instruments or other documents received by it as the Acquisition Fund Custodian, and for the disposition of the same in accordance herewith.

(h) Unless Acquisition Fund Custodian is guilty of gross negligence or willful misconduct with regard to its duties hereunder, Lessee agrees to and does hereby release and indemnify Acquisition Fund Custodian (to the fullest extent permitted by applicable law and subject to appropriation of moneys sufficient for such purpose by the Board of Supervisors of Lessee in its discretion, and failure to appropriate such moneys shall not constitute an event of default under this Agreement or the Lease) and hold it harmless from any and all claims, liabilities, losses, actions, suits or proceedings at law or in equity, or any other expense, fees or charges of any character or nature, which it may incur or with which it may be threatened by reason of its acting as Acquisition Fund Custodian under this Agreement; and in connection therewith, does indemnify Acquisition Fund Custodian (to the fullest extent permitted by applicable law and subject to appropriation of moneys sufficient for such purpose by the Board of Supervisors of Lessee in its discretion, and failure to appropriate such moneys shall not constitute an event of default under this Agreement or the Lease) against any and all expenses; including reasonable attorneys' fees and the cost of defending any action, suit or proceeding or resisting any claim.

(i) If Lessee and Lessor shall be in disagreement about the interpretation of the Lease, or about the rights and obligations, or the propriety of any action contemplated by Acquisition Fund Custodian hereunder, Acquisition Fund Custodian may, but shall not be required to, file an appropriate civil action to resolve the disagreement. Acquisition Fund Custodian shall be reimbursed by Lessee for all costs, including reasonable attorneys' fees, in connection with such civil action, and shall be fully protected in suspending all or part of its activities under the Lease until a final judgment in such action is received.

(j) Acquisition Fund Custodian may consult with counsel of its own choice and shall have full and complete authorization and protection with the opinion of such counsel. Acquisition Fund Custodian shall otherwise not be liable for any mistakes of fact or errors of judgment, or for any acts or omissions of any kind unless caused by its willful misconduct.

(k) Subject to Lessee's prior written approval of any costs and expenses related to extraordinary administration as herein provided prior to an Event of Default, Lessee shall reimburse Acquisition Fund Custodian for all reasonable costs and expenses, including those of Acquisition Fund Custodian's

attorneys, agents and employees incurred for extraordinary administration of the Acquisition Fund and the Delivery Costs Fund and the performance of Acquisition Fund Custodian's powers and duties hereunder in connection with any Event of Default under the Lease, or in connection with any dispute between Lessor and Lessee concerning the Acquisition Fund or the Delivery Costs Fund.

2. *Acquisition and Installation of Energy Conservation Equipment.*

(a) *Acquisition Contracts.* Lessee will arrange for, supervise and provide for, or cause to be supervised and provided for, the acquisition and installation of the Equipment with moneys from the Acquisition Fund. Lessee represents that the estimated costs of the Energy Conservation Equipment are within the funds estimated to be available therefor, and Lessor makes no warranty or representation with respect thereto. Lessor shall have no liability under any of the acquisition or construction contracts. Lessee shall obtain all necessary permits and approvals, if any, for the acquisition, equipping and installation of the Energy Conservation Equipment, and the operation and maintenance thereof.

(b) *Authorized Acquisition Fund Disbursements.* Disbursements from the Acquisition Fund shall be made for the purpose of paying (including the reimbursement to Lessee for advances from its own funds to accomplish the purposes hereinafter described) the cost of acquiring the Energy Conservation Equipment. **Lessee and Acquisition Fund Custodian hereby acknowledge and agree that prior to Equipment Acceptance any demands for payment of related Equipment Costs or any other amounts due to the Vendors shall be paid by Lessee from its own funds that are legally available for the purpose and not from funds held in the Acquisition Fund. Such funds so paid by the Lessee may be reimbursed as provided in the Lease, subject to any limitations on any such reimbursement as otherwise provided in the Lease.**

(c) *Requisition Procedure.* Prior to disbursement from the Acquisition Fund there shall be filed with the Acquisition Fund Custodian a requisition for such payment in the form of Disbursement Request attached hereto as Schedule 1 (a "Disbursement Request"), stating each amount to be paid and the name of the person, firm or corporation to whom payment thereof is due and certifying the Acceptance Date of Equipment Acceptance for the portion of Energy Conservation Equipment for which disbursement is requested. Each such Disbursement Request shall be signed by an authorized representative of Lessee (an "Authorized Representative") and by Lessor, and shall be subject to the following:

1. Delivery to Lessor of an executed Disbursement Request in the form attached hereto as Schedule 1 certifying that:

(i) Equipment Acceptance has occurred as of the Acceptance Date identified therein with respect to the portion of

Energy Conservation Equipment for which disbursement is requested; (ii) an obligation in the stated amount has been incurred by Lessee, is a proper charge against the Acquisition Fund for costs relating to the Energy Conservation Equipment identified in the Lease and has not been paid (or has been paid by Lessee and Lessee requests reimbursement thereof); (iii) the Authorized Representative has no notice of any vendor's, mechanic's or other liens or rights to liens, chattel mortgages, conditional sales contracts or security interest which should be satisfied or discharged before such payment is made; (iv) such requisition contains no item representing payment on account, or any retained percentages which Lessee is, at the date of such certificate, entitled to retain (except to the extent such amounts represent a reimbursement to Lessee); (v) the Energy Conservation Equipment is insured in accordance with the Lease; (vi) [no Event of Default (nor any event which, with notice or lapse of time or both, would become an Event of Default) has occurred and is continuing;] and [(vii)] the representations, warranties and covenants of Lessee set forth in the Lease are true and correct as of the date thereof.

2. Delivery to Lessor of invoices (and proofs of payment of such invoices, if Lessee seeks reimbursement) as required by Section 5.01(b) of the Lease and any additional documentation reasonably requested by Lessor;

3. The disbursement shall occur during the Acquisition Period[; and]

[4. No Event of Default (nor any event which, with notice or lapse of time or both, would become an Event of Default) has occurred and is continuing under the Lease].

Notwithstanding anything in this Agreement to the contrary, an amount may not be disbursed from the Acquisition Fund to pay Equipment Costs relating to a portion of the Energy Conservation Equipment prior to the date on which Lessee has certified to Acquisition Fund Custodian in the related disbursement request that Equipment Acceptance has occurred with respect to such portion of Energy Conservation Equipment for which funds are requested for disbursement from the Acquisition Fund.

3. *Deposit to Acquisition Fund and Delivery Costs Fund.* Upon satisfaction of the conditions specified in Section 3.04 of the Lease, Lessor will cause the Acquisition Amount to be deposited as follows: (a) \$_____ into the Acquisition Fund and (b) \$_____ into the Delivery Costs Fund. Lessee agrees to pay any costs with respect to the Energy Conservation Equipment in excess of amounts available therefor in the Acquisition Fund and to pay Delivery Costs in excess of amounts available therefor in the Delivery Costs Fund; *provided, however*, that any amount required for such purpose shall

be payable solely from moneys appropriated for such purpose by the Board of Supervisors of Lessee in its discretion, and failure to appropriate such moneys shall not constitute an event of default under this Agreement or the Lease.

4. *Excessive Acquisition Fund.* Any funds remaining in the Acquisition Fund (including any funds transferred from the Delivery Costs Fund pursuant to Section 1(e) hereof) on or after the earlier of (a) the expiration of the Acquisition Period, (b) the date on which Lessee executes and delivers to Lessor the Final Acceptance Certificate pursuant to Section 5.01(a) of the Agreement or (c) the 90th day following the later of _____, 2014 or, if Lessee has obtained an extension for the expenditure of amounts in the Acquisition Fund in accordance with Section 54A(d)(2) of the Code, the close of such extended period, or upon a termination of the Acquisition Fund and the Delivery Costs Fund as otherwise provided herein, shall be applied by Acquisition Fund Custodian to the prepayment price owed under the Lease in accordance with Section 4.06 of the Lease.

5. *Security Interest.* Acquisition Fund Custodian and Lessee acknowledge and agree that the Acquisition Fund, the Delivery Costs Fund and all proceeds thereof are being held by Acquisition Fund Custodian for disbursement or return as set forth herein. Lessee hereby grants to Lessor a first priority perfected security interest in the Acquisition Fund, the Delivery Costs Fund and all proceeds thereof and all investments made with any amounts in the Acquisition Fund and the Delivery Costs Fund. If the Acquisition Fund and the Delivery Costs Fund, or any part of either thereof, is converted to investments as set forth in this Agreement, such investments shall be made in the name of Acquisition Fund Custodian and Acquisition Fund Custodian hereby agrees to hold such investments as bailee for Lessor so that Lessor is deemed to have possession of such investments for the purpose of perfecting its security interest.

6. *Control of Acquisition Fund and Delivery Costs Fund.* In order to perfect Lessor's security interest by means of control in (i) the Acquisition Fund established hereunder, (ii) the Delivery Costs Fund established hereunder, (iii) all securities entitlements, investment property and other financial assets now or hereafter credited to the Acquisition Fund or the Delivery Costs Fund, as the case may be, (iv) all of Lessee's rights in respect of the Acquisition Fund and the Delivery Costs Fund, such securities entitlements, investment property and other financial assets, and (v) all products, proceeds and revenues of and from any of the foregoing personal property (collectively, the "*Collateral*"), Lessor, Lessee and Acquisition Fund Custodian further agree as follows:

(a) All terms used in this Section 6 which are defined in the California Commercial Code (the "*Commercial Code*") but are not otherwise defined herein shall have the meanings assigned to such terms in the Commercial Code, as in effect on the date of this Agreement.

(b) Acquisition Fund Custodian will comply with all entitlement orders originated by Lessor with respect to the Collateral, or any portion of the Collateral, without further consent by Lessee.

(c) Acquisition Fund Custodian hereby represents and warrants that (i) the records of Acquisition Fund Custodian show that Lessee is the sole owner of the Collateral, (ii) Acquisition Fund Custodian has not been served with any notice of levy or received any notice of any security interest in or other claim to the Collateral, or any portion of the Collateral, other than Lessor's claim pursuant to this Agreement, and (iii) Acquisition Fund Custodian is not presently obligated to accept any entitlement order from any person with respect to the Collateral, except for entitlement orders that Acquisition Fund Custodian is obligated to accept from Lessor under this Agreement and entitlement orders that Acquisition Fund Custodian, subject to the provisions of paragraph (e) below, is obligated to accept from Lessee.

(d) Without the prior written consent of Lessor, Acquisition Fund Custodian will not enter into any agreement by which Acquisition Fund Custodian agrees to comply with any entitlement order of any person other than Lessor or, subject to the provisions of paragraph (e) below, Lessee, with respect to any portion or all of the Collateral. Acquisition Fund Custodian shall promptly notify Lessor if any person requests Acquisition Fund Custodian to enter into any such agreement or otherwise asserts or seeks to assert a lien, encumbrance or adverse claim against any portion or all of the Collateral.

(e) Except as otherwise provided in this paragraph (e) and subject to Section 1(c) hereof, Acquisition Fund Custodian may allow Lessee to effect sales, trades, transfers and exchanges of Collateral within the Acquisition Fund and the Delivery Costs Fund, but will not, without the prior written consent of Lessor, allow Lessee to withdraw any Collateral from the Acquisition Fund or the Delivery Costs Fund. Acquisition Fund Custodian acknowledges that Lessor reserves the right, by delivery of written notice to Acquisition Fund Custodian, to prohibit Lessee from effecting any withdrawals (including withdrawals of ordinary cash dividends and interest income), sales, trades, transfers or exchanges of any Collateral held in the Acquisition Fund or the Delivery Costs Fund. Further, Acquisition Fund Custodian hereby agrees to comply with any and all written instructions delivered by Lessor to Acquisition Fund Custodian (once it has had a reasonable opportunity to comply therewith) and has no obligation to, and will not, investigate the reason for any action taken by Lessor, the amount of any obligations of Lessee to Lessor, the validity of any of Lessor's claims against or agreements with Lessee, the existence of any defaults under such agreements, or any other matter.

(f) Lessee hereby irrevocably authorizes Acquisition Fund Custodian to comply with all instructions and entitlement orders delivered by Lessor to Acquisition Fund Custodian.

(g) Acquisition Fund Custodian will not attempt to assert control, and does not claim and will not accept any security or other interest in, any part of the Collateral, and Acquisition Fund Custodian will not exercise, enforce or attempt to enforce any right of setoff against the Collateral, or otherwise charge or deduct from the Collateral any amount whatsoever.

(h) Acquisition Fund Custodian and Lessee hereby agree that any property held in the Acquisition Fund and the Delivery Costs Fund shall be treated as a financial asset under such section of the Commercial Code as corresponds with Section 8-102 of the Uniform Commercial Code, notwithstanding any contrary provision of any other agreement to which Acquisition Fund Custodian may be a party.

(i) Acquisition Fund Custodian is hereby authorized and instructed, and hereby agrees, to send to Lessor at its address set forth in Section 7 below, concurrently with the sending thereof to Lessee, duplicate copies of any and all monthly Acquisition Fund and Delivery Costs Fund statements or reports issued or sent to Lessee with respect to the Acquisition Fund and the Delivery Costs Fund.

7. *Miscellaneous.* Capitalized terms not otherwise defined herein shall have the meanings assigned to them in the Lease. This Agreement may not be amended except in writing signed by all parties hereto. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original instrument and each shall have the force and effect of an original and all of which together constitute, and shall be deemed to constitute, one and the same instrument. Notices hereunder shall be made in writing and shall be deemed to have been duly given when personally delivered or when deposited in the mail, first class postage prepaid, or delivered to an express carrier, charges prepaid, or sent by facsimile with electronic confirmation, addressed to each party at its address below:

If to Lessor: Banc of America Leasing & Capital, LLC
11333 McCormick Road
Mail Code: MD5-032-07-05
Hunt Valley, MD 21031
Attn: Contract Administration
Fax: (443) 556-6977

If to Lessee: County of Los Angeles
Kenneth Hahn Hall of Administration
500 West Temple Street, Room ____
Los Angeles, California 90012
Attn: _____
Fax: (213) _____

If to Acquisition
Fund Custodian:

Deutsche Bank National Trust Company
200 South Tryon Street, Suite 550
Charlotte, NC 28202
Attn: Michael Weber
Phone: (704) 333-5744
Fax: (704) 333-5852

IN WITNESS WHEREOF, the parties have executed this Acquisition Fund and Account Control Agreement as of the date first above written.

Banc of America Leasing & Capital, LLC,
as Lessor

County of Los Angeles, California
as Lessee

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Deutsche Bank National Trust Company,
as Acquisition Fund Custodian

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

SCHEDULE 1

TO THE ACQUISITION FUND AND ACCOUNT CONTROL AGREEMENT

FORM OF DISBURSEMENT REQUEST

Re: Taxable QECB Equipment Lease/Purchase Agreement (Direct Subsidy) dated as of _____, 2011 (the "*Lease*"), between Banc of America Leasing & Capital, LLC, as Lessor, and the County of Los Angeles, California, as Lessee (Capitalized terms not otherwise defined herein shall have the meanings assigned to them in the Lease.)

In accordance with the terms of the Acquisition Fund and Account Control Agreement, dated as of _____, 2011 (the "*Acquisition Fund and Account Control Agreement*") by and among Banc of America Leasing & Capital, LLC ("*Lessor*"), the County of Los Angeles, California ("*Lessee*") and Deutsche Bank National Trust Company (the "*Acquisition Fund Custodian*"), the undersigned on behalf of Lessee hereby (a) accepts for purposes of the Lease (described above) the Energy Conservation Equipment described below as of the Acceptance Date identified below and (b) requests that the Acquisition Fund Custodian pay the following persons the following amounts from the Acquisition Fund created under the Acquisition Fund and Account Control Agreement for the following purposes:

PAYEE'S NAME AND ADDRESS	INVOICE NUMBER	DOLLAR AMOUNT	PURPOSE

The undersigned hereby certifies as follows:

(i) The Acceptance Date on which Equipment Acceptance has occurred for the Energy Conservation Equipment for which disbursement is hereby requested is _____, 20____.

(ii) An obligation in the stated amount has been incurred by Lessee, is a proper charge against the Acquisition Fund for costs relating to the Energy Conservation Equipment identified above and has not been paid (or has been paid by Lessee and Lessee requests reimbursement thereof). Attached hereto is the original invoice with respect to each such obligation.

(iii) The undersigned, as Authorized Representative, has no notice of any vendor's, mechanic's or other liens or rights to liens, chattel mortgages, conditional sales contracts or security interest which should be satisfied or discharged before such payment is made.

(iv) This requisition contains no item representing payment on account, or any retained percentages which Lessee is, at the date hereof, entitled to retain (except to the extent such amounts represent a reimbursement to Lessee).

(v) The Energy Conservation Equipment for which disbursement is hereby requested is insured in accordance with Section 7.02 of the Lease.

[(vi) No Event of Default, and no event which with notice or lapse of time, or both, would become an Event of Default, under the Lease has occurred and is continuing at the date hereof.]

[(vii)] The disbursement shall occur during the Acquisition Period.

[(viii)] The representations, warranties and covenants of Lessee set forth in the Lease are true and correct as of the date hereof.

Dated: _____

COUNTY OF LOS ANGELES, CALIFORNIA

By: _____
Authorized Representative

Disbursement of funds from the Acquisition
Fund in accordance with the foregoing
Disbursement Request hereby is authorized

BANC OF AMERICA LEASING & CAPITAL, LLC,
as Lessor under the Lease

By: _____
Name: _____
Title: _____

August 23, 2011

ATTACHMENT F

**HIGH DESERT COMPLEX SOLAR PROJECT
CITY OF LANCASTER
ADOPT MITIGATED NEGATIVE DECLARATION
APPROVE PROJECT AND PROJECT BUDGET
AUTHORIZE USE OF LEASE-PURCHASE FINANCING
AWARD DESIGN-BUILD AND OPERATIONS AND MAINTENANCE ENERGY
SERVICE CONTRACTS
MAKE FINDINGS OF PROJECT SELF-FUNDING
CAPITAL PROJECT NO. 67940; SPECS. 7147**

FORM OF PURCHASE CONTRACT

August __, 2011

County of Los Angeles
Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Re: Purchase Contract for Taxable QECB
Equipment Lease/Purchase Agreement (Direct Subsidy)
of County of Los Angeles, California, as Lessee

Ladies and Gentlemen:

Banc of America Leasing & Capital, LLC (the "*Purchaser*") hereby offers to purchase from the County of Los Angeles, California (the "*Lessee*") the above referenced Taxable QECB Equipment Lease/Purchase Agreement (Direct Subsidy), to be dated the date of execution and delivery by the parties (the "*Agreement*"), to be entered into between the Lessee and Banc of America Leasing & Capital, LLC, as lessor (in such capacity, the "*Lessor*"), in substantially the form heretofore agreed upon. This offer is made subject to the Lessee's acceptance hereof on or before 11:59 p.m., Pacific time, on the date hereof, at which time this offer expires if not accepted. Upon the Lessee's acceptance of this offer, a contract will be formed and be binding upon the Lessee and the Purchaser. On the terms and conditions set forth below, the Purchaser hereby agrees to purchase from the Lessee, and the Lessee hereby agrees to sell and deliver to the Purchaser, the Agreement:

Description and Amount: \$ _____ Taxable QECB Equipment Lease/Purchase Agreement (Direct Subsidy), to be dated as of the date of execution and delivery by the parties

Purchase Price: \$ _____, which equals 100% of the aggregate principal component of Rental Payments under the Agreement (there being no accrued interest)

Interest Rate: ____% per annum (computed on a 360 day year of twelve 30-day months) commencing to accrue on the Closing Date (described below); the interest component of Rental Payments will be subject to federal income taxation

Purpose of Agreement: Financing for the acquisition and installation of two 1-megawatt solar photovoltaic plants (collectively, the "*Energy Conservation Equipment*") on County-owned vacant land

located between the Mira Loma Detention Center and the Challenger Memorial Youth Center in the City of Lancaster, California, that constitute "*qualified conservation purposes*" within the meaning of Section 54D of the Internal Revenue Code of 1986, as amended (the "*Code*"), including an amount to pay costs of issuance (not to exceed the 2% limitation).

Acquisition Period:

The "*Acquisition Period*" for acquisition and installation of the Energy Conservation Equipment is from the Closing Date to the fifth business day prior to [June 1], 2012.

Delivery of Original Agreement:

The Agreement may be executed and delivered in multiple counterparts provided that the original (so identified) counterpart is delivered to the Purchaser at closing.

Source of Payment and Security:

Rental Payments under the Agreement are payable from the Lessee's general fund or other funds that are legally available for that purpose. Except for the abatement of Rental Payments upon the occurrence of certain events of damage, destruction or condemnation and all of the Equipment being substantially available for the Lessee's beneficial use and enjoyment, the Lessee's obligations to make Rental Payments and to perform its other obligations under the Agreement shall be absolute and unconditional in all events without abatement, diminution, deduction, set-off or defense for any reason, including (without limitation) any failure of the Energy Conservation Equipment, disputes with any vendor or the Lessor or the failure or inability (for whatever reason) of the Lessee to receive (or delay in receipt of) all or any portion of the direct cash subsidy payments with respect to the Agreement (as described under "US Treasury Direct Cash Subsidy Payments" below).

The Lessee's obligations under the Agreement shall be secured by the grant of a first (and exclusive) priority security interest in the Energy Conservation Equipment, except as otherwise provided in the Agreement.

The Lessee's obligations under the Agreement shall also be secured by a first (and exclusive) priority pledge and security interest in the Acquisition Fund and the Delivery Costs Fund in which the proceeds of sale of the Agreement are deposited and held until applied for the purposes described above, including money and securities held therein and any investment earnings thereon, as provided in the Acquisition Fund and Account Control Agreement (the "*Acquisition Fund Agreement*") to be entered into among the Lessee, the Lessor

and the Acquisition Fund Custodian therein identified.

**US Treasury Direct Cash
Subsidy Payments:**

Pursuant to the Agreement, the Lessee will designate the Agreement as a "*qualified energy conservation bond*" within the meaning of Section 54D(a) of the Code. The Lessee will irrevocably elect under the Agreement to receive a direct cash subsidy payment from the United States Department of the Treasury with respect to the Agreement (the "*Direct Subsidy Payments*") and acknowledge that, as a consequence of such election, the Lessor (including its successors and assigns) will not be entitled to a tax credit as a result of ownership of the Agreement.

The Lessee will be solely responsible to calculate the amount of the Direct Subsidy Payments, apply for the Direct Subsidy Payments and comply with applicable provisions of the Code during the term of the Agreement to obtain payment of the Direct Subsidy Payments from the United States Department of the Treasury. The amount of the Direct Subsidy Payments will be based on the credit rate published by the Secretary of the Treasury on the date hereof upon acceptance of this offer by the _____ of the Lessee. Such credit rate on the date hereof is ____%.

Rental Payments:

Rental Payments under the Agreement, consisting of a principal portion and an interest portion, will be payable on the dates and in the amounts set forth on *Exhibit A* hereto, subject to the provisions of the Agreement.

Agreement Term:

From the Closing Date to _____, 202__, subject to extension as provided in the Agreement and limitations thereon as provided in the Agreement.

**Mandatory, Optional and
Extraordinary Prepayment
Provisions:**

Rental Payments under the Agreement will not be subject to optional or extraordinary prepayment by the Lessee prior to the final Rental Payment due date, except in the following circumstances:

- *Mandatory Excess Proceeds Prepayment.* To the extent that less than 100% of the available project proceeds are expended for qualified purposes by the earlier of (i) the expiration of the Acquisition Period, (ii) the date on which the Lessee executes the Final Acceptance Certificate pursuant to the Agreement or (iii) the 90th day following the later of _____, 2014 or, if the Lessee has obtained an extension of the expenditure period from the Secretary of the Treasury,

the end of such extended period, all amounts then remaining in the Acquisition Fund will be applied (except as provided in the Agreement) to prepay Rental Payments in whole, or in part on a pro rata basis of the amount due on each Rental Payment due date. The prepayment price with respect to any such prepayment with respect to an amount of \$250,000 or less shall be equal to [100]%, and with respect to an amount in excess of \$250,000 shall be equal to [103]%, of the principal portion to be prepaid [(which includes a prepayment premium)] plus accrued interest on the prepaid principal portion to the prepayment date. In connection with any such prepayment, the Lessee shall pay the prepayment premium and interest accrued to the prepayment date on the unpaid principal portion from funds legally available to the Lessee for that purpose, but not from available project proceeds.

- *Optional Prepayment.* The Lessee shall have the option to prepay or satisfy all (or under Section 10.01(b) of the Agreement, all or part) of its obligations under the Agreement from and after January 1, 20, on any Rental Payment due date, upon not less than 30 days' prior written notice, and upon payment in full of the Rental Payments then due and all other amounts then owing under the Agreement plus the then applicable Prepayment Price as set forth on *Exhibit A* hereto.
- *Extraordinary Optional Prepayment Upon Damage, Destruction or Condemnation.* The Lessee shall have the option to purchase all, but not less than all, of the Energy Conservation Equipment in the event of substantial damage to or destruction or condemnation of substantially all of the Energy Conservation Equipment, on the day specified in the Lessee's notice to the Lessor of its exercise of the purchase option (which shall be the earlier of the next Rental Payment due date or 60 days after the casualty event) upon payment in full to the Lessor of the sum of (a) any Rental Payment then due plus (b) an amount equal to the lesser of the then applicable Purchase Price or [103]% of the aggregate unpaid principal portion of Rental Payments plus (c) all other amounts then owing under the Agreement.

- *Extraordinary Optional Prepayment Loss of Subsidy.* The Lessee shall have the option to purchase all, but not less than all, of the Energy Conservation Equipment from and after any Loss of Subsidy (as hereafter defined), on the day specified in the Lessee's notice to the Lessor of its exercise of the prepayment option upon payment in full to the Lessor of the sum of (a) any Rental Payment then due plus (b) an amount equal to the lesser of the then applicable Prepayment Price or [103]% of the aggregate unpaid principal portion of Rental Payments plus (c) all other amounts then owing under the Agreement. "*Loss of Subsidy*" *Loss of Subsidy*" means the occurrence of any of the following: (A) legislation enacted by the Congress of the United States of America or a ruling, regulation or statement issued by the Treasury Department or the Internal Revenue Service, the effect of which (I) denies, repeals, revokes or reduces the Direct Subsidy Payments or (II) imposes one or more new substantive conditions on the receipt by Lessee of Direct Subsidy Payments and such conditions are unacceptable to Lessee; and (B) any governmental, administrative, judicial or other official action that is beyond Lessee's control and results in the significant reduction or loss of Direct Subsidy Payments to Lessee or imposes one or more new substantive conditions on the receipt by Lessee of Direct Subsidy Payments and such conditions are unacceptable to Lessee; *provided, however,* that in no event shall a "*Loss of Subsidy*" occur as the result of Lessee's failure or inability for reasons within its control to receive (or delay in receipt of) all or any portion of any Direct Subsidy Payment from the United States Department of Treasury or Lessee's failure to comply with applicable law and regulations to obtain payment of any Direct Subsidy Payment from the United States Department of Treasury, including (without limitation) any offset against any Direct Subsidy Payment as a result of other liabilities of Lessee to the United States Department of Treasury.

Davis-Bacon Act Compliance: The Lessee shall comply with the requirements of the Davis-Bacon Act in connection with the acquisition and installation of the Energy Conservation Equipment.

**Annual Financial Statements
& Reporting:**

Until all amounts owed to the Lessor under the Agreement are paid in full, the Lessee shall make available to the Lessor its annual audited financial statements, budget and other financial information as provided in the Agreement.

Documentation:

The Agreement and the Acquisition Fund Agreement shall be executed and delivered by the Lessee and the Lessor in substantially the forms agreed upon by the Lessee and the Lessor prior to the date hereof. All other documentation relating to the transaction provided in the Agreement shall be prepared by the Lessee's Counsel and shall be in form and content acceptable to the Purchaser and the Lessee.

Investment Letter:

The Purchaser will sign an investment letter on the Closing Date to the effect that it (a) is a "*qualified institutional buyer*" as defined in Rule 144A(a)(1) promulgated under the Securities Act of 1933, as amended; (b) has conducted its own investigation of the financial condition of the Lessee, the purpose for which the Agreement is being entered into and of the security for payment of the Rental Payments under the Agreement and has obtained such information regarding the Agreement and the Lessee and its operations, financial condition and financial prospects as the Purchaser deems necessary to make an informed investment decision with respect to its purchase of the Agreement; (c) is purchasing the Agreement for its own account and without a present intention to sell any portion thereof to any other person, *provided* that the Purchaser retains the right at any time to dispose of the Agreement or any interest therein as it may determine to be in its best interests and that any subsequent resale shall be made only in accordance with the Agreement and applicable securities laws; (d) acknowledges and agrees that the Lessee is not required to participate in, or provide information with respect to, any private offering memorandum or other disclosure document in connection with any assignment, transfer or conveyance pursuant to the Agreement and the Lessee shall have no disclosure or continuing disclosure obligation with respect to any such assignment, transfer or conveyance; and (e) acknowledges and agrees that the obligation of the Lessee to pay Rental Payments under the Agreement shall constitute a current expense of the Lessee and shall not in any way be construed to be a debt of the Lessee in contravention of any applicable constitutional or statutory limitations or requirements concerning the creation of indebtedness by the Lessee, nor shall anything contained in

the Agreement constitute a pledge of the full faith and credit or taxing power of the Lessee.

Closing Date:

On _____, 2011 (the "*Closing Date*"), unless the Lessee and the Purchaser agree to a different date.

Closing Conditions:

The following are conditions precedent to the Purchaser's obligations under this contract:

At or prior to the Closing Date, the Lessee will deliver to the Purchaser the following:

- the Agreement and the Acquisition Fund Agreement executed by the respective parties thereto;
- a certified copy of a resolution adopted by the Board of Supervisors of the Lessee authorizing the execution and delivery of the Agreement and the Acquisition Fund Agreement and an incumbency and authorization certificate of the Lessee in form and content acceptable to the Purchaser;
- an opinion of counsel to the Lessee in substantially the form attached to the Agreement and otherwise in form and content acceptable to the Purchaser;
- evidence of insurance as required by Section 7.02 of the Agreement;
- financing statements under Article 9 of the California Commercial Code with respect to the Energy Conservation Equipment, sufficient to perfect security interests in personal property and fixtures and treating such Article 9 as effective with respect to governmental transfers;
- fully completed and executed I.R.S. information reporting return with respect to the Agreement;
- a certificate from an authorized officer of the Lessee to the effect that (a) all financial statements and other information delivered to the Purchaser are correct and complete; and (b) from the date hereof to the Closing Date, there shall not have occurred a downgrade of two or more sub-grades on any of the Lessee's publicly available long-term general obligation bond ratings or any of the Lessee's other long-term general fund related bond ratings by either Moody's Investors

Service, Inc. or Standard & Poor's Ratings Group; and

- payment and performance bonds (including dual obligee rider) as required by Section 7.04 of the Agreement.

From the date hereof to the Closing Date, there shall not have occurred any (i) downgrade of two or more sub-grades on any of the Lessee's publicly available long-term general obligation bond ratings or any of the Lessee's other long-term general fund related bond ratings by either Moody's Investors Service, Inc. or Standard & Poor's Ratings Group, (ii) event, court decision, proposed law or rule that may have the effect of changing the federal income tax incidents of the Agreement or the contemplated transaction, (iii) international or national crisis or banking moratorium materially affecting, in the reasonable opinion of the Purchaser, the market value of the Agreement or (iv) new restrictions on the extension of credit by banks or other lending institutions by any federal or state agency.

The Lessee shall have executed a tax certificate with respect to the Agreement and the Direct Subsidy Payments to the extent required by the Lessee based upon advice provided by Chapman and Cutler LLP, as tax counsel to the Lessee.

Fees and Expenses:

The Lessee shall be responsible to pay fees and expenses related to this transaction, including fees and expenses of counsel to the Lessee and Purchaser Counsel (not to exceed \$15,000 for Purchaser Counsel), placement agent/solar consultant fees and any fees and expenses of the Acquisition Fund Custodian. Such fees and expenses will be disbursed from the Delivery Costs Fund pursuant to the Acquisition Fund Agreement.

Continuing Disclosure:

It is understood that, with respect to the Agreement, the Lessee will not be required to comply with the continuing disclosure requirements of SEC Rule 15c2-12(b).

Purchaser Contact:

Banc of America Leasing and Capital, LLC
11333 McCormick Road
M/C MD5-032-07-05
Hunt Valley II
Hunt Valley, Maryland 21031
Attention: Contract Administration
Fax: (443) 556-6977

Purchaser Counsel:

George Mardikes
Davis Wright Tremaine LLP
1300 SW Fifth Avenue, Suite 2300
Portland, Oregon 97201
Telephone: (503) 778-5323
Fax: (503) 276-5830

Integration Clause:

This offer, when accepted, will constitute the complete and entire contract between the Lessee and the Purchaser, and all prior communications and correspondence (including the Proposal Letter previously submitted to the Lessee) between the Lessee and the Purchaser with respect to the subject matter of the contract, whether written or oral, are superseded by the contract.

Governing Law:

This offer and the acceptance hereof, the contract formed hereby and the transactions completed hereunder will be governed by California law.

If the Lessee is in agreement with the terms and conditions contained herein, please sign in the space provided below indicating the Lessee's acceptance of this offer and return an executed copy of the contract via fax or e-mail to the Purchaser. If you should have any questions, please contact the undersigned.

Sincerely,

BANC OF AMERICA LEASING & CAPITAL, LLC

By: _____
Name: _____
Title: _____

Agreed and accepted on the date first above
written:

COUNTY OF LOS ANGELES, CALIFORNIA

By: _____
Name: _____
Title: _____

EXHIBIT A

RENTAL PAYMENTS SCHEDULE

RENTAL PAYMENT DATE	RENTAL PAYMENT AMOUNT	INTEREST PORTION	PRINCIPAL PORTION	OUTSTANDING BALANCE	PREPAYMENT PRICE (including prepayment premium, if applicable)

August 23, 2011

ATTACHMENT G

**HIGH DESERT COMPLEX SOLAR PROJECT
CITY OF LANCASTER
ADOPT MITIGATED NEGATIVE DECLARATION
APPROVE PROJECT AND PROJECT BUDGET
AUTHORIZE USE OF LEASE-PURCHASE FINANCING
AWARD DESIGN-BUILD AND OPERATIONS AND MAINTENANCE ENERGY
SERVICE CONTRACTS
MAKE FINDINGS OF PROJECT SELF-FUNDING
CAPITAL PROJECT NO. 67940; SPECS. 7147**

FINAL INITIAL STUDY/MITIGATED NEGATIVE DECLARATION